

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-6186

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

B

Docket No. 77-6186

ROBERT V. RAFTER,

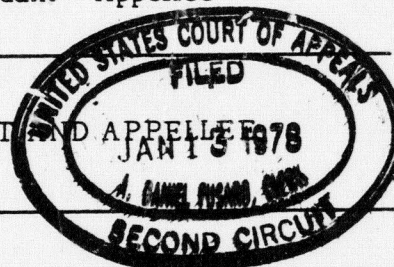
Plaintiff - Appellant

- against -

FEDERAL BUREAU OF INVESTIGATION OF THE
UNITED STATES DEPARTMENT OF JUSTICE,

Defendant - Appellee

JOINT APPENDIX TO BRIEFS OF APPELLANT AND APPELLEE



WILLIAM HIBSHER,
Assistant U.S. Attorney
Attorney for Appellee
One St. Andrew's Plaza
New York, New York

10007

ROBERT V. RAFTER,
Attorney for Appellant
One North Avenue
Weston, Connecticut

06883

PAGINATION AS IN ORIGINAL COPY

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DIST/OFFICE	DOCKET		FILING DATE			J	N/S	O	R	N	23	S	DEMAND OTHER	JUDGE NUMBER	JURY DEMAND	YR.	DOCKET NUMBER
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PLAINTIFFS
RAFTER, ROBERT V.

DEFENDANTS Judge Frankel
FEDERAL BUREAU OF INVESTIGATION
OF THE UNITED STATES DEPARTMENT
OF JUSTICE.

10/18

CAUSE

Violation of the Freedom of Information-Privacy Act.

JT

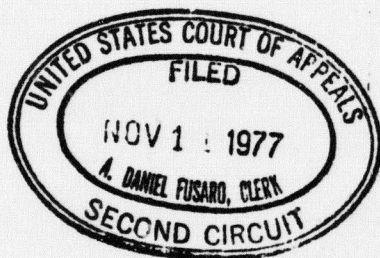
Robert V. Rafter *pro se*
c/o ~~Paula~~ Clerk of Court
U.S.D.C of SDNY Rm g33
Foley Square, New York, N.Y.
10007

ATTORNEYS

William J. Hibsher
Asst. U.S. Atty
1 St. Andrew's Place
N.Y.C. 10007 791-1959

Designating the Clerk of the Court
to receive & forward papers to plttf.

Robert V. Rafter
1 North Avenue
Weston, Conn. 06883



☐ CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID		STATISTICAL CARDS	
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77 civ 1131

JUDGE FRANKEL
PAGE # 2.

77 civ 11

DATE	NR.	PROCEEDINGS
8-8-77	1.	Filed Compl't. & Iss. Summons.
4-5-77	2.	Filed Pltff's Letter appointing the Clerk of the Court to receive papers for pltff.
4-7-77	3	Filed Pltff's NOTICE OF MOTION for partial summary judgment, Rule 56(a) FRCP.
04-12-77	4	Filed Summons with Marshal's Return-- Served on: F.B.I. Served By: Mr. Albano Atty. Gen. D.O.J. Certified Mail #955784 Dates: 3/28/77 3/30/77
04-18-77	5	Filed affdvt. of William Hibaher (AUSA) in opposition to Pltff's motion for summary judgment, etc. (Copy Mailed to Pltff. by Clerk).
04-27-77	6	Filed Pltff's Memorandum of Law in support of motion for partial summary judgment.
4-27-77	7.	Filed ANSWER by deft.
5-4-77	8.	Filed Pltffs. notice to take deposition of deft. on 5-19-77. US ATTY
5-4-77	9.	Filed Pltffs. notice to take deposition of James Proter, on 5-20-77.
5-13-77	10.	Filed defts. affdvt. and notice of motion for an order staying discovery until at least 10 days after disposition of deft's motion to dismiss, or for summary judgment, or for a stay of the action pursuant to 5 U.S.C. 522(a)(6)(C). Ret. 5-26-77.
5-13-77	11.	Filed deft's memorandum of law in support of its motion for a protective order.
5-13-77	12.	Filed defts. affdvt. and notice of motion for an order dismissing the complaint Pursuant to Rule 12(b) of the F.R. of Civ. P. for failure to exhaust administrative remedies, alternatively, for an order pursuant to Fe. R. 56 granting summary judgment in favor of FBI, or for an order staying further judicial proceedings pending the completion of the administrative process. Ret. 5-26-77.
5-13-77	13.	Filed memorandum of law in support of the Govt's motion to dismiss for summary judgment, or for a stay.
5-18-77	14.	Filed Govts; rule 9(f) affdvt. in support of deft's motion for a protective order vacating the notices of deposition and staying all discovery in this action.
5-25-77	15.	Filed Pltffs. affdvt. and memorandum of law in opposition to defts. motions ret. 5-26-77.
5-31-77	16.	Filed defts reply affdvt. to pltff's 5-25-77 affdvt in opposition to Gov'ts motion to dismiss etc...
6-17-77	17.	Filed Letter to Judge Frankel from Robert V. Rafter dtd 6-14-77.
6-28-77	18.	Filed Pltffs. affdvt. and notice of motion for an order pursuant to Rule 26(c) of the F.R. of Civ. P. permitting and compelling discovery by deposition of the proposed deponent at sserved herein with notices 5-4-77 Ret. 7-1-77...
7-13-77	19.	Filed supplemental memorandum of law in support of deft's cross-motion for summary Judgment.
7-13-77	20.	Filed defts. statement pursuant to Rule 9(g).
7-21-77	21.	Filed Memorandum & Order deft. has moved for summary judgment dismissing the complaint. The latter motion will be granted. The complaint is dismissed. It is So Ordered.....FRANKEL.J. m/n
8-4-77	22.	Filed Pltffs. notice of motion for an order pursuant to Rule 9(m) of the General Rules of this court granting reargument of pltff's motion for discovery...Ret. 8-8-77.

CONT'D ON PAGE 3

B.

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. <u>77 Civ 11</u>
Raftter, Robert V.		F.B.I. of the US Dept. Of Justice	PAGE <u>3</u> OF <u>3</u> PAGES
DATE	NR.	PROCEEDINGS	
8-19-77	23	File Judgement, that defendant Federal Bureau of Investigation of the United States Department of Justice have judgement against plaintiff ROBERT V. RAFTER Dismissing the complaint...Clerk Mailed copy	
8-22-77		Filed Memo-End on documtn #22.....Motin denied.....so Ordered.....FRANKEL, J. M/ COPY.	
10-18-77		Filed Notice of Appeal from the order of the Hon. Judge Frankel, entered 8-22-77 denying pltff's motion to examine the deft. & others before trial. COPY.	

A TRUE COPY
 RAYMOND E. BURGHARDT, Clerk

By *R. Burghardt*
 Deputy Clerk

C.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT V. RAFTER,

Plaintiff,

77 CIV 1131

- against -

CIVIL ACTION NO.

FEDERAL BUREAU OF INVESTIGATION
OF THE UNITED STATES DEPARTMENT
OF JUSTICE,

Defendant.

ROBERT V. RAFTER, appearing pro se, for his
complaint herein alleges:

1. That the subject matter of this action arises under Title 5 of the United States Code, sections 552, 552a et seq., Act Dec. 31, 1974, P.L. 93-579, commonly known as the Freedom of Information- Privacy Act.

2. That at all times hereinafter mentioned the defendant Federal Bureau of Investigation was a Federal Agency within the definitional provisions of the aforementioned statute, having offices at 201 East 69th Street in the City and State of New York.

3. That at all times hereinafter mentioned plaintiff was a citizen of the United States, domiciled in the State of Connecticut.

4. That plaintiff is an attorney at law duly admitted to practice before the Supreme Court of the State of New York and before the United States District Court for the Southern District of New York.

5. Commencing 23 August 1976 and continuing thereafter to the date of this complaint, plaintiff has made written and verbal request of the defendant to provide plaintiff with the record and information maintained by defendant relating to plaintiff and has made written and verbal request of defendant that plaintiff be permitted to review said record or a portion thereof at defendant's office located at 201 East 69th Street in the City and State of New York.

6. Defendant has denied these requests and has refused to permit plaintiff to review the record at its office aforesaid and has refused to provide plaintiff with the record.

7. Upon information and belief defendant maintains information and records at its office aforesaid relating to plaintiff.

8. Upon information and belief the refusals of defendant to produce the record and information requested or to permit review of the record or a portion thereof are in direct violation of the statute, 5 USC 552, 552a et seq.

9. Upon information and belief plaintiff has been damaged by reason of defendant's concealment of the record or a portion thereof.

WHEREFORE, plaintiff demands judgment against defendant pursuant to the provisions of 5 USC 552a (1) ordering that the record be produced for review by plaintiff

at the offices of defendant at 201 East 69th Street in the City and State of New York; (2) granting plaintiff the right to make a copy of all or a portion of said record; (3) permitting plaintiff to amend the record as provided at 5 USC 552a(d)(2); (4) awarding plaintiff damages pursuant to 5 USC 552a and (5) directing defendant to pay reasonable attorney fees and litigation costs of this action.

Dated: New York, New York

~~3 November 1976~~

8 MARCH 1977

Robert V. Rafter
 ROBERT V. RAFTER
 Attorney for plaintiff pro se
 c/o Pro Se Clerk
 United States District Court
 Southern District of New York
 Room 66 G 33
 United States Courthouse
 Foley Square
 New York, New York

10007

SIRS:

PLEASE TAKE NOTICE, that plaintiff demands trial by jury of each and every issue triable by jury pursuant to the provisions of Rule 38 of the Federal Rules of Civil Procedure.

Dated: New York, New York

~~3 November 1976~~

8 MARCH 1977

Robert V. Rafter
 ROBERT V. RAFTER
 Attorney for plaintiff pro se.

COPY 200 v. 1
7 APRIL 1977

7a

For referral to Judge FRANKEL
after docketing.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MF

----- X
ROBERT V. RAFTER,

Plaintiff,

77 CIV 1131

- against -

FEDERAL BUREAU OF INVESTIGATION
OF THE UNITED STATES DEPARTMENT
OF JUSTICE,

NOTICE OF MOTION FOR
PARTIAL SUMMARY JUDG-
MENT, RULE 56(a) FRCP.

Defendant.
----- X

S I R S :

PLEASE TAKE NOTICE that upon the complaint herein
filed 8 March 1977 and upon the annexed General Rule 9(g)
concise statement, the undersigned will move this court at
a motion term thereof to be held at the chambers of the
Honorable MARVIN F. FRANKEL located at the United States
District Court Courthouse, Foley Square, New York, New York,
on the 14TH day of April, 1977, at 10:00 o'clock in the forenoon
of that day, or as soon thereafter as counsel may be heard,
for an order granting summary judgment with respect to the
demand in the complaint that the defendant produce for review by
plaintiff the record at its offices in New York City, and for
such other and further relief as to the court shall seem just
and equitable.

Dated: New York, New York
5 April 1977

Yours, etc.

Robert V. Rafter
ROBERT V. RAFTER
Attorney for plaintiff pro se
c/o Pro Se Clerk Room G 33
U.S. District Court
U.S. Courthouse
Foley Square, New York, N.Y.
10007

TO: Office of U.S. Attorney
Attorney for Defendant
New York, New York

U.S. DISTRICT COURT - SDNY - 77-1131

UNITED STATE DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- XX

M F

ROBERT V. RAFTER,

Plaintiff,

77 CIV 1131

- against -

FEDERAL BUREAU OF INVESTIGATION
OF THE UNITED STATES DEPARTMENT
OF JUSTICE,

General Rule 9(g)
Concise Statement

Defendant.

----- X

STATEMENT

The material facts as to which the moving party
plaintiff contends there is no issue to be tried are as
follows:

1. The subject matter of the action arises under the Freedom of Information -Privacy Act.
2. The defendant is a federal agency under the statute, having offices at 201 East 69th Street, New York City.
3. Plaintiff is a U.S. citizen.
4. Plaintiff is an attorney at law as alleged.
5. Defendant maintains information and records at its office aforesaid relating to plaintiff.
6. Plaintiff has made written and verbal request of defendant to be provided with the record and to be permitted to review it and copy all or a portion thereof at defendant's office aforesaid.
7. These requests have been denied by defendant.

Dated: 5 April 1977
New York, New York

Robert V. Rafter
ROBERT V. RAFTER
Attorney for plaintiff prose
c/o Pro Se Clerk
Room G 33
U.S. District Court
Paley Square, New York, N.Y.

WJH:gdd
77-1022

9a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ROBERT V. RAFTER,

Plaintiff,

-v-

FEDERAL BUREAU OF INVESTIGATION
of the UNITED STATES DEPARTMENT
OF JUSTICE,

Defendant.
-----X

:
:
:
: AFFIDAVIT

: 77 Civ. 1284 (MEF)

1131

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

WILLIAM HIBSHER, being duly sworn, deposes as
follows:

1. I am an Assistant United States Attorney
in the office of Robert B. Fiske, Jr., United States Attorney
for the Southern District of New York, attorney for the
defendant in this action. I make this affidavit in opposition
to plaintiff's motion for summary judgment, pursuant to
Federal Rule of Civil Procedure 56(f). This affidavit is
also submitted pursuant to General Rule 9(g) of the United
States District Courts.

2. This office was served with the complaint
in this action on March 28, 1977. On April 7, 1977 we
were served with plaintiff's motion for summary judgment,
returnable on April 19, 1977.

3. Defendant has, by virtue of 5 U.S.C. § 552(a)
(4)(C), a statutory right to a 30-day period before being
required to "answer or otherwise plead." Scheduling a
motion for summary judgment so soon after service of the

WJH:gdd
77-1022

complaint effectively deprives defendant of a meaningful opportunity to prepare its defense. See Martin v. Neuschel, 396 F.2d 759 (3d Cir. 1968).

4. I have been advised that defendant has been unable, as yet, to determine why plaintiff's request for information has not been complied with or whether plaintiff has exhausted his administrative remedies pursuant to statute and regulations.

5. Furthermore, plaintiff's motion for summary judgment lacks an accompanying memorandum of law as required in Local Rule 9(b) and is therefore defective.

6. Though I am advised that defendant expects to be able to submit its answer by the April 27, 1977 answering date, I am also advised that a response to plaintiff's motion for summary judgment may necessitate an application for an extension of time to enable defendant to prepare the necessary affidavits and memorandum of law.

7. This Court is respectfully asked to continue plaintiff's motion pursuant to Rule 56(f) until after the requisite memorandum is served and defendant has had an opportunity to gather the facts and prepare its answer.

/s/
WILLIAM HIBSHER
Assistant United States Attorney

Sworn to before me this
day of April, 1977.

/s/

PAULINE P. TROIA
Notary Public, State of New York
No. 01-000001
Qualified in New York County
Commission Expires March 30, 1978

WJH:emw
77-1022

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ROBERT V. RAFTER, :

Plaintiff, :

-v- :

ANSWER

FEDERAL BUREAU OF INVESTIGATION :
OF THE UNITED STATES DEPARTMENT :
OF JUSTICE, :

77 Civ. 1134 (MEF)

Defendant. :
-----X

The defendant, by its attorney, Robert B. Fiske, Jr., United States Attorney for the Southern District of New York, as and for its answer to the complaint herein alleges on information and belief as follows:

1. Neither admits nor denies the allegations of paragraph 1 of the complaint, since it contains allegations of law to which no responsive pleading is required.

2. Denies the allegations of paragraph 2 of the complaint, except admits that defendant maintains offices at 201 East 69th Street, New York, New York.

3. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 3 and 4 of the complaint.

4. Lacks knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 5 of the complaint, except admits that defendant has received written requests for information contained in records kept by defendant concerning plaintiff.

5. Denies the allegations contained in paragraph 6 of the complaint except admits that defendant wrote to plaintiff on October 1, 1976 explaining that heavy volumes of requests for information had caused a large backlog in answering those requests but that plaintiff's request would be answered at the earliest possible date.

6. Denies the allegations contained in paragraph 7 of the complaint except admits maintaining a file which contains letters addressed to defendant from plaintiff concerning plaintiff's request for information, the first of which is dated August 23, 1976.

7. Denies the allegations contained in paragraphs 8 and 9 of the complaint and notes that paragraphs 8 and 9 contain conclusions of law to which no responsive pleading is required.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

8. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

9. The complaint should be dismissed for improper venue.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

10. Defendant Federal Bureau of Investigation is not a proper party to this action.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

11. Plaintiff has failed to name individually an indispensable party, the United States Department of Justice.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

12. The Court lacks jurisdiction over the subject matter of this action in that plaintiff has failed to exhaust his administrative remedies.

WHEREFORE, defendant respectfully requests judgment dismissing the complaint and awarding to it costs,

WJH:emw
77-1022

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disbursements and such other relief as the Court deems just and proper.

Dated: New York, New York

April 26, 1977

ROBERT B. FISKE, JR.
United States Attorney for the
Southern District of New York
Attorney for Defendant

By:

William J. Hibsher

WILLIAM J. HIBSHER
Assistant United States Attorney
Office and P.O. Address:
One St. Andrew's Plaza
New York, N.Y. 10007
Telephone: (212) 791-1959

14a

MAY 11 2 27 PM '77

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT V. RAFTER,

Plaintiff,

- against -

77 CIV 1131

NOTICE TO TAKE
DEPOSITION

FEDERAL BUREAU OF INVESTIGATION
OF THE UNITED STATES DEPARTMENT
OF JUSTICE,

Defendant.

-----X
S T R S :

PLEASE TAKE NOTICE that the plaintiff, Robert V. Rafter, will take the deposition of the defendant by its agents, Messrs. J. Wallace La Prade, Hawke, Caswell and Cashin, upon oral examination pursuant to the Federal Rules of Civil Procedure, at 10:30 A.M. on ^{19th} May 1977, at Room G 33 of the United States District Court, United States Courthouse, Foley Square, New York, New York, before Emily Thompson, a notary public, or before some other official authorized by law to administer oaths.

The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Dated: 1 May 1977
New York, New York

Yours, etc.

Robert V. Rafter
ROBERT V. RAFTER
Attorney for plaintiff pro se
c/o Pro Se Clerk
Room G 33
United States District Court
Foley Square, New York, N.Y.

TO: WILLIAM HIRSHER, Esq.
Assistant United States Attorney
Attorney for defendant
One St. Andrews Plaza
New York, New York

10007

18.

15a

MAY 4 2 27 PM '77

S.D.N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

MEF

ROBERT V. RAFTER,

77 CIV. 1131

Plaintiff,

- against -

NOTICE TO TAKE
DEPOSITION

FEDERAL BUREAU OF INVESTIGATION
OF THE UNITED STATES DEPARTMENT OF
JUSTICE,

Defendant.

X

S I R S :

PLEASE TAKE NOTICE that the plaintiff, Robert V. Rafter, will take the deposition of *JAMES PORTER, Esq.*, Chief Counsel to the Association of the Bar of the City of New York of 36 West 44th Street, New York, New York, upon oral examination pursuant to the Federal Rules of Civil Procedure, at 10:30 A.M. on TH 20 May 1977, at Room G 33 of the United States District Court, United States Courthouse, Foley Square, New York, New York, before Billy Thompson, a notary public, or before some other official authorized by law to administer oaths.

The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

Respectfully,
New York, New York

Yours, etc.

ROBERT V. RAFTER
Attorney for plaintiff pro se
c/o Pro Se Clerk
Room G 33
United States District Court
Foley Square, New York, N.Y.

WJH:art

16a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT V. RAFTER,

Plaintiff,

-v-

FEDERAL BUREAU OF INVESTIGATION
of the United States Department
of Justice,

Defendant.

NOTICE OF MOTION

77 Civ. 1131 (MEF)

S I R S :

PLEASE TAKE NOTICE that upon the annexed affidavit of William Hibsher, Assistant United States Attorney, sworn to May 13, 1977; and the accompanying Memorandum of Law, defendant Federal Bureau of Investigation will move this Court in the United States Courthouse, Room 706, on May 26, 1977, for an order pursuant to Rule 26(c) of the Federal Rules of Civil Procedure staying discovery until at least 10 days after disposition of defendant's motion to dismiss, or for summary judgment, or for a stay of the action pursuant to 5 U.S.C. § 522(a)(6)(C).

Dated: New York, New York

May 12, 1977

Yours, etc.,

ROBERT B. FISKE, JR.
United States Attorney for the
Southern District of New York
Attorney for Defendant

By: William Hibsher
WILLIAM HIBSHER
Assistant United States Attorney
Office and Post Office Address:
One St. Andrew's Plaza
New York, New York 10007
Tel. (212) 791-1959

WH:ik
77-1022

17a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
ROBERT V. RAFTER, : AFFIDAVIT
Plaintiff, : 77 Civ. 1131 (MEF)
- v - :
FEDERAL BUREAU OF INVESTIGATION :
of the UNITED STATES DEPARTMENT :
OF JUSTICE, :
Defendant. :
-----x

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

WILLIAM HIBSHER, being sworn, deposes as follows:

1. I am an Assistant United States Attorney in the office of Robert B. Fiske, Jr., United States Attorney for the Southern District of New York, attorney for the defendant in this action. I make this affidavit in support of defendant's motion, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure for a protective order vacating the notices of deposition and staying all discovery in this action until at least 10 days after disposition of defendant's motion to dismiss, or for a stay pursuant to 5 U.S.C. §552 (a)(6)(C).

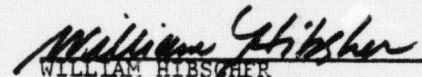
2. Plaintiff Robert V. Rafter, as attorney pro se, commenced this Freedom of Information Act action by filing a complaint on March 8, 1977. On April 5, 1977, plaintiff moved for partial summary judgment; defendant filed an affidavit in opposition on April 18, 1977. That motion is pending before this Court. On April 27, 1977 the defendant filed a timely answer to the complaint. On May 1, 1977, plaintiff noticed the deposition of defendant through four named individual employees or agents for May 19, 1977 and the deposition of a non-party, James Porter, Esq., Chief Counsel to the Bar

WH:ik
77-1022

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Association of the City of New York, for May 20, 1977. Simultaneous with the filing of this motion, defendant is filing a motion to dismiss the complaint or for summary judgment, or for a stay of this action pending conclusion of the administrative process pursuant to 5 U.S.C. §552(a) (6) (C).

3. This Court is respectfully requested to vacate the notices of deposition served on defendant and the non-party witness, James Porter, Esq., and to stay all discovery in this action pending the outcome of dispositive motions now before the Court.


WILLIAM HIESCHER
Assistant United States Attorney

Sworn to before me this
13th day of May, 1977.

¹⁵¹
NOTARY PUBLIC
PAULINE P. TROIA
Notary Public, State of New York
No. 31-4832381
Qualified in New York County
Commission Expires March 30, 1978

WJH:mkb
77-1022

19a
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
ROBERT B. RAFTER,

Plaintiff,

- v -

FEDERAL BUREAU OF INVESTIGATION
of the United States Department
of Justice,

Defendant.
----- x

:
: NOTICE OF MOTION

: 77 Civ. 1131 (MEF)

S I R S :

PLEASE TAKE NOTICE that upon the annexed affidavit of John E. Howard, sworn to May 5, 1977, and the accompanying Memorandum of Law, defendant will move this Court, in the United States Courthouse, Room 706, Foley Square, New York, New York, on May 26, 1977 for an order pursuant to Rule 12 (b)(1) of the Federal Rules of Civil Procedure dismissing the complaint for failure to exhaust administrative remedies, alternatively, for an order pursuant to Federal Rule 56 granting summary judgment in favor of the FBI; or, pursuant to 5 U.S.C. § 552(a)(6)(C), for an order staying further judicial proceedings pending the completion of the administrative process.

Dated: New York, New York

May 12, 1977

Yours, etc.,

ROBERT B. FISKE, JR.
United States Attorney for the
Southern District of New York
Attorney for Defendant.

By: William Hysner

WILLIAM HYSNER

Assistant United States Attorney
Office and Post Office Address:
One St. Andrew's Plaza
New York, New York 10007
Telephone: (212) 791-1959

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ROBERT V. RAFTER

Plaintiff

v.

Civil Action
Number 77 Civ 1131

FEDERAL BUREAU OF INVESTIGATION, et al.

Defendants

AFFIDAVIT OF JOHN E. HOWARD

I, John E. Howard, being duly sworn, depose as follows:

(1) I am the Unit Chief of the Initial Processing Unit, Freedom of Information-Privacy Acts (FOIPA) Branch, Records Management Division of the Federal Bureau of Investigation (FBI), at FBI Headquarters (FBIHQ), Washington, D. C.

(2) Due to the nature of my official duties, I am familiar with the procedures the FBI follows in processing requests for information from our files, received pursuant to Title 5, United States Code, Sections 552 and 552a, more commonly known as the Freedom of Information Act (FOIA) and Privacy Act of 1974 (PA). During my tenure as Unit Chief, I have supervised the initial processing of approximately 9,000 FOIPA requests.

(3) As part of my official responsibilities, I am thoroughly familiar with the procedures used by the FBI in responding to plaintiff's request for information under the Freedom of Information and Privacy Acts. I have personally reviewed the initial handling of his request and I am familiar with its current status within the administrative process.

(4) By letter dated August 23, 1976, directed to the Office of New York Director, Federal Bureau of Investigation, 3rd Avenue and 69th Street, New York, New York, the plaintiff requested under FOIA "disclosure of any file or information maintained by the Bureau." Attached hereto as Exhibit A is a true copy of plaintiff's letter dated August 23, 1976.

(5) By letter dated August 27, 1976, receipt of plaintiff's letter of August 23, 1976, was acknowledged by the New York Field Office of the FBI. Plaintiff was requested to resubmit his request furnishing his full name, complete address, date and place of birth and a notarized signature. Attached hereto as Exhibit B is a true copy of this letter.

(6) By letter dated September 4, 1976, plaintiff submitted the requested additional information and his notarized signature. A true copy of his letter is attached hereto as Exhibit C.

(7) By letter dated September 15, 1976, the New York Field Office acknowledged having received plaintiff's letter of September 4, 1976, and advised him that under the regulations of the U.S. Department of Justice his request was being referred to FBI Headquarters, Washington, D. C., for reply. His request was received at FBI Headquarters on September 17, 1976. Attached hereto as Exhibit D is a true copy of this letter.

(8) By letter dated September 22, 1976, plaintiff inquired "...while we are waiting for an answer from Washington to emerge may I come in and review the record in the New York office and have a copy made of all or a portion in the words of the statute" and he further stated: "In your letter of 27 August 1976 you indicated a search of the New York records would be made. Also, your

referral of the entire matter to Washington might have the effect of eliminating suit in the southern district."

Attached hereto as Exhibit E is a true copy of this letter.

(9) By letter dated October 1, 1976, plaintiff was advised by our New York Field Office that "Your request falls within criteria of Title 28, Code of Federal Regulations, Section 16.57 (C) (1)." A copy of this subsection of the regulations of the Attorney General was enclosed for his information. In accordance with these regulations, the request was referred to FBI Headquarters, Washington, D. C., for reply. This referral was in lieu of local access to possible duplicate materials in our field office files.

(10) The Code of Federal Regulations, Section 16.57 (C) (1) states "Where the investigative activities involved have been reported to FBI Headquarters, records maintained in the FBI's central files will be processed."

(11) By letter dated October 1, 1976, FBI Headquarters advised plaintiff his FOIPA request had been forwarded to FBIHQ by the New York Field Office and was received September 17, 1976. He was further advised "Since January 1, 1975, the FBI has received a total of 26,242 FOIPA requests. Of these, our present backlog is 7,504. In an effort to deal fairly with any request requiring the retrieval, processing and duplication of documents, each request is being handled in chronological order based on the date of receipt. Please be assured that your request is being handled as equitably as possible and that all documents which can be released will be made available at the earliest possible date." Attached hereto as Exhibit G is a true copy of this letter.

(12) By letter dated October 24, 1976, addressed to the Seattle, Washington, FBI Office, plaintiff requested "all information relating to me on file with your Bureau." A true copy of his letter is attached hereto as Exhibit H.

(13) By letter dated November 5, 1976, the Seattle FBI Office advised plaintiff his letter was received November 1, 1976, and "...a search of the Index to our Field Office records systems of investigations conducted by the Federal Bureau of Investigation revealed no record identifiable with you." A true copy of this letter is attached hereto as Exhibit I.

(14) By letter dated November 30, 1976, addressed to the New Haven, Connecticut, FBI Office, plaintiff requested "information relating to me on file with your office." This letter was notarized December 15, 1976. A true copy of his letter is attached hereto as Exhibit J.

(15) On January 21, 1977, the New Haven FBI Office corresponded with plaintiff and advised him "...our field office files indicate you have never been the subject of any investigation by the New Haven Office of the Federal Bureau of Investigation.

The New Haven Office is in receipt of previous correspondence from you to the New York Office of the FBI concerning a similar request of that office. This correspondence indicates that our headquarters in Washington, D. C. is processing this request." A true copy of this letter is attached hereto as Exhibit K.

(16) In order to equitably administer the processing of requests for records pursuant to the disclosure provisions of the FOIA and PA, all such requests are handled seriatim by the Disclosure Section of the FOIPA Branch with no preference or early processing granted based on the particular Act under which disclosure is requested.

(17) Requests received by the FBI that fall within the FOIA are designated as "Project" or "Non-Project" requests. A request wherein the retrievable records are so voluminous (15 volumes or more) as to require a substantial amount of record review time are "Project" requests, and those having to do with a lesser amount of records review are "Non-Project" requests.

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(18) Plaintiff's request was determined to be a "Non-Project" request and was placed on the Non-Project docket, to be processed in chronological order according to the date of its receipt at FBIHQ. As such, each step in the initial handling of plaintiff's request has been entirely consistent with the FBI procedures which were adopted to ensure an equitable and efficient response to all parties seeking information under the Freedom of Information and Privacy Acts. As will be outlined below, the unfortunate delay in the processing of plaintiff's request is attributable solely to the fact that the finite resources available to the FBI for the discharge of its statutory responsibilities have been completely outstripped by the tremendous (and unforeseen) volume of FOIPA requests, as well as various court orders which have directed specific allocations of such resources.

(19) In 1973, the FBI received an average of approximately one FOIA request per day, an amount which could be processed without undue burden. In 1974, the FBI averaged over 37 requests per month. The amendments went into effect in February of 1975 and the Privacy Act went into effect in September, 1975. In that year, 1975, we received 13,875 requests pursuant to these two Acts, an increase of more than three thousand percent over the previous year. In the year 1976, we received 15,652 new requests for access to records. For the period January 1, 1977, to April 15, 1977, we received an additional 4,639 requests for access to records.

2576

(.) Although implementation of the Act was unfunded, ¹ the FBI has recognized and taken substantial action in terms of allocation of manpower and other measures to meet the tremendous administrative burdens imposed upon it as a result of the numerous requests for information from its files received under the Freedom of Information-Privacy Acts. A special unit, solely designated to handle FOIA requests, became operational in October of 1973, at which time it consisted of eight employees, including three law-trained Special Agents. This complement was doubled during 1974 to keep pace with the increased volume of requests. During 1975, further periodic increases in the personnel complement assigned solely to the processing of FOIA and/or PA requests were made by reassigning personnel from other substantive duties. By the end of 1975, 161 employees at FBIHQ were engaged solely in the processing of such requests, including 23 law-trained Special Agents. This did not include numerous employees from other Divisions at FBIHQ who were required to devote a substantial portion to their time, to the detriment of their other duties, to assist in this effort. Through additional increases this year, we now have 366 employees assigned full-time at FBIHQ to the processing of requests received pursuant to the FOIA and the PA. Obviously, at some point this significant diversion of the agency's finite resources to the processing of FOIPA requests will have a detrimental impact on the proper discharge of the FBI's other statutory responsibilities (e.g., criminal investigations).

1/ In House Report Number 93-867, dated March 5, 1974, to accompany H. R. 12471, the Committee on Government Operations estimated the cost to the entire Federal Government for implementation of the amendments to the FOIA not to exceed \$50,000 for Fiscal year (FY) 1974, nor \$100,000 for each of the succeeding five Fiscal years. The actual cost to the FBI alone for implementation of the FOIA in FY 1974 was \$160,000. In FY 1975, it jumped to \$462,000, and for FY 1976, the estimated cost for both Acts is \$2,765,000. These figures are the directly attributable costs only; inclusion of all expenses traceable to these two Acts would result in noticeably higher figures.

(21) Despite what we feel to be more than diligent efforts to comply with all requests, including plaintiff's, on an equitable basis, there have been unavoidable delays arising from the sheer volume of requests received and as a result of court orders requiring reassignment of substantial numbers of our personnel to process certain cases on a deadline basis. The following examples of some of these court orders are provided to illustrate this point:

(a) In Meeropol, et al. v. Levi, et al.

(United States District Court for the District of Columbia, Civil Action No. 75-1121), the court issued an order on August 27, 1975, which required the FBI to inventory, by October 1, 1975, some 363 volumes (each of which averages 100 to 200 pages) of files, and by October 21, 1975, locate and inventory over 9,000 references, all of which represent material in the FBI's possession considered relevant to the Rosenberg espionage case. Additionally, all of the above material not exempt pursuant to the FOIA had to be made available to plaintiff in that case by November 17, 1975, accompanied by detailed justification for those portions of the above-described material which were withheld pursuant to the FOIA. This single court order forced the FBI to assign approximately one-half of all FOIPA personnel to the processing of the subject matter of one FOIA request, while the remainder of the complement attempted to process the thousands upon thousands of other FOIA requests which continued unabated.

(b) In Weinstein v. Levi, et al. (United States District Court for the District of Columbia, Civil Action No. 2278-72), the court issued an order on October 20, 1975, which required the FBI to furnish plaintiff an itemized

inventory, by December 1, 1975, of all documents he had requested under the FOIA (essentially, all pertinent material concerning the Rosenberg case, supra, plus an additional 152 volumes of files pertaining to the Alger Hiss perjury case) not previously furnished him, setting forth a detailed justification with respect to any documents Director Kelley withheld pursuant to the FOIA. Additionally, the order required the FBI to make available to plaintiff, by December 15, 1975, all of the above-described material not exempt from release pursuant to the FOIA. An additional 32 volumes of files had to be reviewed in order to locate information plaintiff had requested. Although the court issued an order on November 25, 1975, extending the above-described deadline until January 31, 1976, as well as limiting the inventory requirement to only that material not being furnished to the plaintiff, this order still required the FBI to assign a substantial portion of its FOIPA personnel to the processing of the subject matter of one request.

(c) In Fellner v. United States Department of Justice (United States District Court for the Western District of Wisconsin, Civil Action No. 75-C-430), the court issued an order on December 17, 1975, requiring the FBI to review 4,000 pages per month of the voluminous material subject to the plaintiff's request. Because of this order, the FBI was once again required to devote a substantial portion of its FOIPA personnel to the processing of one request, to the detriment of all others. This review was not completed until September, 1976.

(d) On May 21, 1976, the court in Hayden v. United States Department of Justice (United States District Court for the District of Columbia, Civil Action No. 76-0288),

issued an order giving the FBI just over three months - until September 1, 1976 - to review, process, and release to the plaintiff the non-exempt portions of material responsive to his FOIA request not yet furnished him, estimated to be in excess of 17,000 pages of records. Additionally, by September 15, 1976, the FBI prepared an itemized, indexed inventory of all the above material withheld from the plaintiff pursuant to the FOIA. This did, of course, have the cumulative effect of further delaying the FBI's compliance with other requests, including those now being processed.

(e) Other court orders have been issued requiring us to reassign substantial numbers of personnel to process certain cases on a deadline basis, but in the interest of brevity they are not set forth.

(22) The FBI has been making every reasonable, and sometimes extraordinary, effort to comply with the unexpected demands of the PA and the amended FOIA. IN consideration of the present and continuing increase and the workload of the FBI in fulfillment of its congressionally-mandated investigative duties concerning violations of Federal statutes, and taking into account its present budgetary and personnel limitations, it has been and continues to be an overwhelming burden for the FBI to respond to these requests with any greater speed. Of the 13,875 requests received in 1975, the FBI was able to respond fully to 7,699, and as of the end of that year, was processing an additional 1,004. This left a backlog of 5,172 requests which still required processing, preferably on the basis of date received to ensure fairness to all requesters. The number of requests received since January 1, 1976, has previously been set out. More than 34,806 individual

FOIA and PA requests have been submitted to the FBI since January of 1975, and as of April 15, 1977, the backlog of requests was 7,536. This backlog exists in spite of the fact that the number of people working in our FOIPA Branch is greater than that in either our General Investigative Division or our Special Investigative Division, which are the two Divisions at FBIHQ charged with overseeing the vast majority of all criminal violations in the United States over which the FBI has investigative jurisdiction. As of April 8, 1977, we were processing 1,299 FOIA requests.

(23) The sheer enormity of the FBI's administrative burden can be seen when it is realized what is involved in processing each separate PA and FOIA request, keeping in mind that the entire procedure must be done manually, since the FBI possesses no automatic data processing or computerization capability with regard to its investigatory records.

(a) Upon receipt of each request, assuming the subject matter is reasonably identifiable, such as a named individual or individuals, or a named organization or organizations, a search of the FBI's Central Indices is initiated, the result of which will indicate whether any files dealing with the subject matter of the request are contained in the FBI's Central Records System.

(b) The Central Records System at FBIHQ is the primary record system maintained by the FBI. This system is entirely manually accessed and maintained. The system contains the recorded product of over 50 years of investigative efforts that correlates a total of slightly more than 6.6 million cases investigated during the history of the FBI. Of the 6.6 million cases, one million were destroyed pursuant to Archival authority, 1.7 million exist on microfilm, and 3.9 million are "hard copy" case files. These records are accessed through an indices system that

contains approximately 59 million indices cards. Of these cards, more than 19 million identify the suspects in an investigation, and in some instances, the victims of particular crimes. An additional number, in excess of 38 million, reference names of associates, witnesses, etc., as well as the pseudonym or phonetically spelled counterpart of any of the above. The decision to index is made by the investigative Agent in the field and the supervising Agent at FBIHQ, except for the names of subject(s), suspect(s) or victim(s) carried in the case caption, which are automatically indexed. The search endeavors today are often presumed simple in light of modern technology. The opposite is indeed a fact. Computerized systems of records are available to the FBI with regard to only three types of stored materials: (1) certain FBI personnel information; (2) National Crime Information Center (NCIC), which information consists of basic descriptive and legal process data concerning fugitives and stolen property information; and (3) Computerized Criminal Histories (CCH), an adjunct of NCIC, which contains arrest and disposition information concerning individuals contributed by participating jurisdictions. Both CCH and the Identification Division records are available to the person whom the records concern only upon submission of fingerprints, which are used to ensure positive identification. Records reflecting the investigative effort of the FBI are contained within the Central Records System. Other than manually searching indices and physically retrieving and reviewing each record, this system cannot be accessed unless one desires to spend many lifetimes conducting a random search of millions of pages of records.

In the case wherein no record of an investigation concerning the subject matter of the inquiry is located, the requester is so advised at the time of his request. If the indices search indicates that files which may fall within the purview of the request may be located in the Central Records

System (as was the case with plaintiff's request), the requester is so advised, and the request is placed in chronological order until the FBI is able to initiate the actual processing. When the request is assigned for processing, these files are located and a determination is made whether the information therein is in fact identical to the subject matter of the request (i.e., Is the John Doe in the file the same as the John Doe who has requested information concerning himself?). The mechanical task of processing follows.

(c) The task of processing an FOIA request involves first reproducing an entire section of the file in order to review and mark for deletions or exemptions, where appropriate. From this working copy, additional copies are made - one for the requester and one for the FBI's administrative control. Review consists of a line-by-line reading, with constant attention to matters which involve, among other considerations, the privacy and confidentiality of third parties, classified data, and other information which is proscribed from release pursuant to the FOIA or other statutes. Classified material must be further reviewed by Special Agent personnel with expertise in the substantive area to which the particular document pertains, in order to determine if the document meets the current classification criteria and which portion of the document is actually subject to classification. Thereafter, a determination will be made as to the release of any non-classified portion of the document.

(d) This entire review process is carried out under the supervision of law-trained Special Agents, and, assuming material which falls within the subject matter of the FOIA request has been located and processed, this material is subject to several succeeding higher levels of examination and is finally furnished to the requester over Director Kelley's signature. These examinations are made for the purpose of assuring that no material to which the requester is entitled is erroneously withheld, and that no material

which should be withheld pursuant to the FOIA is inadvertently released. Obviously, the FBI's review procedures are not readily amenable to expedition, for the time necessary to process an FOIPA request cannot be significantly reduced without taking shortcuts which would threaten legitimate interests of both the requester and the government, as well as the rights of third parties appearing in the files under consideration.

(24) Based on the FBI's experience to date in these matters, due diligence requires that the only fair way of ensuring that each request receives the attention it deserves is to process these requests in chronological order based on the date of their receipt, and this is the policy the FBI is presently following. The FBI has been required to make exceptions to this policy pursuant to court orders, but it is observed that in the not-too-distant future, such orders may become a vicious circle of self-defeating proportions, with the ultimate victims being those requesters who lack the resources necessary to institute legal action. It is possible that the FBI could reach the stage where all available FOIPA personnel are engaged solely in the processing of requests pursuant to court-imposed deadlines, to the detriment of the rights of all other requesters. This could well cause other FOIA requesters who are able to file suit, but who thus far have displayed an understanding of the FBI's burdens and have waited patiently for their requests to be processed, to institute legal actions, which in turn could cause more court orders requiring immediate processing. Considering the substantial allocations of personnel and finances already committed to FOIA and PA processing, the FBI's present budgetary and personnel limitations, and, most importantly, other statutory responsibilities, additional court-imposed deadlines could

place the FBI in the position of expending so much manpower in attempting to comply with a court order in one case, that it would be held in contempt of a similar court order in a different case. Meanwhile, as stated above, those requesters who have not sued would still be waiting.

(25) Because of the exceptional circumstances under which the FBI is operating, caused primarily by the tremendous number of requests received by the FBI, the lack of any appropriations through fiscal year 1976 enabling the FBI to devote the resources necessary to handle these requests, and court orders giving preferential treatment to certain requesters, there is a very large backlog of requests currently awaiting processing.

Since January 1, 1975, the FOIPA Branch at FBIHQ has received 34,806 requests and has been able to effect disposition of 27,323. This leaves a backlog of 7,483 requests, 1,322 of which are currently being processed. The remaining 6,161 requests are held chronologically, until assigned out for processing.

(26) Plaintiff's request was received at FBIHQ on September 17, 1976, and has remained in the backlog of the requests to be processed. Based on chronological order of requests to be processed, plaintiff's request has not been assigned out for processing. No prediction can be made of exactly how long it will take to process plaintiff's request; however, every effort will be made to complete this processing as soon as possible. We are presently processing requests received in June, 1976.

(27) Despite the difficulties described throughout this affidavit, the FBI is continuing to do its utmost to give fair and equitable treatment to all requesters. An increase in the manpower of the FOIA and PA Section at

FBIHQ was part of a proposal prepared for the Civil and Constitutional Rights Subcommittee of the House Committee on the Judiciary to Effectively Administer Freedom of Information and Privacy Acts Requests, by Director Kelley on September 20, 1976.

(28) In recognition of the FBI's obligation to make every effort to comply with the time requirements of the FOIPA, FBI Director Clarence M. Kelley has ordered the immediate implementation of the proposal insofar as expanding the permanent FBIHQ staff totally dedicated to processing disclosure requests. This was done to insure that this expansion, amounting to an almost doubling in size, could begin without waiting for a supplemental budget request to be approved.

(29) The second phase of the proposal deals with the assignment of 200 law-trained Special Agents to FBIHQ from their various FBI field offices for a period of approximately six months to specifically process the backlogged requests. This phase of the proposal commenced May 2, 1977, and will cost in excess of five million dollars.

(30) All logical steps to begin the expansion of permanent staff are underway, including realignment and reassignment of key personnel. The necessity of dividing the FOIPA Branch into two sections, one for Operations and one for Disclosures, became very evident through the analysis of the FBI's problems in administering the handling of FOIPA requests. The Disclosure Section deals primarily with the function of processing all FOIPA requests. The Operations Section performs the administrative and supportive functions for the FOIPA Branch which heretofore had also fallen on the same individuals charged with disclosure. The Operations Section of the FOIPA Branch began organizing on September 10, 1976, and the various research and support units were instituted at the same time.

36a

Robert Rafter
1 North Avenue
Weston, Connecticut 06880

23 August 1976

Office of New York Director
Federal Bureau of Investigation
Third Avenue and 69th Street
New York, New York

Dear Sir:

Request is hereby made for disclosure of any file
or information maintained by the Bureau with respect
to the undersigned. This request is made pursuant to
the Freedom of Information Act.

Thanking you for your cooperation, I remain

Sincerely yours,

Robert V. Rafter
ROBERT V. RAFTER

EXHIBIT A

372

201 East 69th Street
New York, New York 10021
August 27, 1976

Mr. Robert W. Rafter
North Avenue
Weston, Connecticut 06880

Dear Mr. Rafter:

This is in reply to your letter of August 23, 1976 which makes request for possible records in your name.

As you may be aware, the Privacy Act of 1974, Title 5, United States Code, Section 552a, became effective on September 27, 1975. Since that date, we have been processing requests from individuals, seeking access to records of the Federal Bureau of Investigation under the Privacy Act. I believe this statute would apply to your request.

I am enclosing a copy of an information sheet and sample letter application you may use to resubmit your request in a form which would permit us to cause a search of the files of the New York Office of the Federal Bureau of Investigation for any reference identifiable with you. If you desire to resubmit your letter request, please furnish your full name, your complete address, your date and place of birth, and a notarized signature.

I regret that we will be unable to take any action to process your request until it is resubmitted.

Sincerely yours,

J. WALLACE LA PRAD
Assistant Director in Charge

EXHIBIT B

38a
ROBERT V. RAFTER
One North Avenue
Weston, Connecticut

06883

4 September 1976

J. Wallace La Prade, Esq.
Assistant Director in Charge
Federal Bureau of Investigation
201 East 69th Street
New York, New York.

Re: Privacy Access request.

Dear Sir:

Referring to my letter of 23 August and your reply 27 August 1976, I again request information relating to me on file with your bureau.

In accordance with your regulations I truthfully furnish the following information to establish my identity:

FULL NAME ROBERT V. RAFTER
ADDRESS One North Avenue, Weston, Conn. 06883
BIRTH DATE 19 March 1914
PLACE OF BIRTH Taunton, Massachusetts
OTHER IDENTIFYING INFORMATION
US Naval Reserve 1940-1945
Former residence 1950-1956
200 East 66th Street
New York, New York.

I swear or affirm that the information I have furnished concerning my identity is truthful. I understand the penalties at law under Title 18, USC, Sec. 1001 for making a false statement or representation, and under Title 5 USC, Sec 552a for requesting any record concerning an individual under false pretenses.

Briefly, my purpose is to obtain all the information that you have concerning me.

Very truly yours

Robert V. Rafter
ROBERT V. RAFTER

Sworn to before me
this 7th day of September 1976.

Notary
(SEAL)

Notary Public, State of New York
No. 240100000
Qualified in Kings County
Certificate issued by New York County Clerk
Commission Expires March 31, 1978

SEARCHED	INDEXED
SERIALIZED	FILED
FBI - NEW YORK	

EXHIBIT C

372



In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

301 East 69th Street
New York, New York 10021
September 13, 1976

Mr. Robert V. Raftoy
One North Avenue
Weston, Connecticut 06883

Dear Mr. Raftoy:

This is to acknowledge receipt of your completed Privacy Access Request by the New York Office (NYO) of the Federal Bureau of Investigation (FBI) on September 8, 1976.

Under the regulations of the United States Department of Justice, as applicable in relation to your request, I am referring your request to FBI Headquarters, Washington, D.C. for reply. Your patience and cooperation will be appreciated.

Sincerely yours,

J. WALLACE LA PRAD
Assistant Director in Charge



EXHIBIT D

432

Robert Rafter
1 North Avenue
Weston, Connecticut 06880

22 September 1976

J. Wallace La Prade, Esq.
Assistant Director in Charge
Federal Bureau of Investigation
201 East 69th Street
New York, New York

Re: Privacy Access request.

Dear Mr. La Prade:

Referring to your letter of 15 Septemebr 1976, while we are waiting for an answer from Washington to emerge may I come in and review the record in the New York office and have a copy made of all or a portion in the words of the statute.

In your letter of 27 August 1976 you indicated a search of the New York records would be made. Also, your referral of the entire matter to Washington might have the effect of eliminating suit in the southern district.

It has been thirty days now since the request was made. Please let me review the New York record in the interim.

Sincerely yours,

Robert V. Rafter
ROBERT V. RAFTER

EXHIBIT E



In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

201 East 69th Street
New York, New York 10021
October 1 1976

Mr. Robert V. Rafter
One North Avenue
Weston, Connecticut 06883

Dear Mr. Rafter:

This is in reply to your letter of September 22, 1976, in connection with your recent Privacy Access Request. This request was previously acknowledged by the New York Office of the Federal Bureau of Investigation on September 15, 1976.

Your request falls within criteria of Title 28, Code of Federal Regulations, Section 16.57 (C) (1). A copy of this subsection of the regulations of the Attorney General is enclosed for your information. In accordance with these regulations, your request has been referred to FBI Headquarters, Washington, D. C., for reply. This referral is in lieu of local access to possible duplicate materials in our field office files.

Sincerely yours,

J. WALLACE LA PRADÉ
Assistant Director in Charge

Enclosure

EXHIBIT F

ENCLOSURE



42a

Mr. Robert V. Rafter

We are now beginning to work on requests which we received during December, 1975.

Your patience and understanding will be appreciated.

Sincerely yours,

Clarence M. Kelley
Director

1 - Assistant Attorney General for Administration - Enclosures (2)
Attention: FOIPA Administrative Unit (Room 1134)

432

October 1, 1976

Mr. Robert V. Rafter
One North Avenue
Weston, Connecticut 06883

Dear Mr. Rafter:

This is to acknowledge receipt of your Freedom of Information-Privacy Acts (FOIPA) request, which was forwarded by our New York Office and received at FBI Headquarters on September 17, 1976.

A preliminary review of the index to our central records discloses references to a name similar to yours. Since our records contain innumerable instances of different people with the same name, and we have reviewed only the index to our records at this point, and not the records themselves, we do not know whether the records in question relate to you.

An exceedingly heavy volume of FOIPA requests has been received these past few months. Additionally, court deadlines involving certain historical cases of considerable scope have been imposed upon the FBI. Despite successive expansions of our staff responsible for FOIPA matters, substantial delays in processing requests continue.

Since January 1, 1975, the FBI has received a total of 26,242 FOIPA requests. Of these, our present backlog is 7,504. In an effort to deal fairly with any request requiring the retrieval, processing and duplication of documents, each request is being handled in chronological order based on the date of receipt. Please be assured that your request is being handled as equitably as possible and that all documents which can be released will be made available at the earliest possible date.

njg:vll

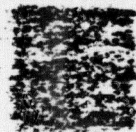


EXHIBIT G

442

ROBERT V. RAFTER
One North Avenue
Weston, Connecticut 06883

24 October 1976

Federal Bureau of Investigation
915 Second Street
Seattle, Washington

Re: Privacy Access request.

Dear Sirs:

Referring to the Freedom of Information - Privacy Act
5 USC 552, 552a et seq. request is hereby made for all
information relating to me on file with your bureau.

In accordance with your regulations I truthfully furnish
the following information to establish my identity:

FULL NAME ROBERT V. RAFTER
ADDRESS One North Avenue, Weston, Conn. 06883
BIRTH DATE 19 March 1914
Place of Birth Taunton, Massachusetts
OTHER IDENTIFYING
INFORMATION

US Naval Reserve duty in Seattle
March 1945 to October 1945,
legal office Navy Building, Seattle
and resided apartment shore of
Lake Washington.

I swear or affirm that the information I have furnished
concerning my identity is truthful. I understand the
penalties at law under Title 18, USC, Sec. 1001 for making
a false statement or representation, and under Title 5 USC,
Sec. 552a for requesting any record concerning an
individual under false pretenses.

Briefly, my purpose is to obtain all the information that
you have concerning me.

Very truly yours,

Robert V. Rafter
ROBERT V. RAFTER

Sworn to before me
this 24 day of October, 1976

Helen M. Bedford
Notary
(SEAL)

HELEN M. BEDFORD
Notary Public, State of New York
No. 404
Queens County
Term Expires 12/31/77

EXHIBIT H

915 Second Avenue
Seattle, Washington 98174
November 5, 1976

Mr. Robert V. Rafter
One North Avenue
Weston, Connecticut 06883

Dear Mr. Rafter:

This is to acknowledge receipt of your Freedom of Information/Privacy Acts request by the Seattle Division of the Federal Bureau of Investigation on November 1, 1976.

In response to your request, please be advised that a search of the Index to our Field Office records systems of investigations conducted by the Federal Bureau of Investigation revealed no record identifiable with you.

Sincerely yours,

JOHN M. REED
Special Agent in Charge
Seattle Division, FBI

Orig-Addressee

- ①-BU, FOIPA STATISTICAL REPORT (Enc 1)
- 1-BU, ASST ATTY GEN for ADMN, FOIPA (Enc 1)
- 2-Seattle (1 - 66-2904 Sub A-85)
(1 - 66-2904 Sub B)

SSH:kn

(5)

EXHIBIT I

462

ROBERT V. RAFTER
One North Avenue
Weston, Connecticut

06883

30 November 1976

Director in Charge
Federal Bureau of Investigation
U.S. Department of Justice
770 Chapel Street
New Haven, Connecticut

Re: Privacy Access request.

Dear Sir:

This is a request for information relating to me on file with your office.

In accordance with your regulations I truthfully furnish the following information to establish my identity:

FULL NAME ROBERT V. RAFTER
ADDRESS One North Avenue, Weston, Conn. 06883
BIRTH DATE 12 March 1914
PLACE OF BIRTH Taunton, Massachusetts
OTHER IDENTIFYING
INFORMATION

Attorney at law admitted to
practice New York State and US
District Court.

I swear or affirm that the information I have furnished concerning my identity is truthful. I understand the penalties at law under Title 18, Sec. 1001, for making a false statement or representation, and under Title 5 USC, Sec. 552a for requesting any record concerning an individual under false pretenses.

Briefly, my purpose is to obtain all the information that your New Haven office has concerning me.

Sincerely yours,

Robert V. Rafter
ROBERT V. RAFTER

Sworn to before me
this 15 day of December 1976.

EXHIBIT J

Adrienne Hopkins
Notary

ENCLOSURE

ADRIENNE HOPKINS
Notary Public, State of New York
No. 60-4674391
Qualified in Westchester County, N.Y.



In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION
770 Chapel Street
New Haven, Connecticut 06521
Post Office Box 2058
January 21, 1977

Mr. Robert V. Rafter
One North Avenue
Weston, Connecticut 06883

Dear Mr. Rafter:

This is in response to your request of January 11, 1977, for any information concerning you in our field office files.

Please be advised that our field office files indicate you have never been the subject of any investigation by the New Haven Office of the Federal Bureau of Investigation.

The New Haven Office is in receipt of previous correspondence from you to the New York Office of the FBI concerning a similar request of that office. This correspondence indicates that our headquarters in Washington, D. C. is processing this request.

Very truly yours,

THOMAS R. DUGAN
Special Agent in Charge

EXHIBIT K

ENCLOSURE

WH:bg
77-1022
05-2562

482
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- -x
ROBERT V. RAFTER, :

Plaintiff, :

- v - :

Rule 9(f) AFFIDAVIT

FEDERAL BUREAU OF INVESTIGATION :
of the UNITED STATES DEPARTMENT :
OF JUSTICE, :

77 Civ. 1131 (MEF)

Defendant. :

----- -x
STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

WILLIAM HIBSHER, being sworn, deposes as follows:

1. I am an Assistant United States Attorney in the office of Robert B. Fiske, Jr., United States Attorney for the Southern District of New York, attorney for the defendant in this action. I make this affidavit pursuant to Rule 9(f) of the General Rules of this Court in support of defendant's motion for a protective order vacating the notices of deposition and staying all discovery in this action pursuant to Rule 26(c) of the Federal Rule of Civil Procedure.

2. I was unable to contact plaintiff, attorney pro se, prior to filing defendant's Rule 26(c) motion on May 13, 1977, as plaintiff has refused to give this office a telephone number at which he could be contacted.

3. On May 16, 1977, Mr. Rafter telephoned my office to discuss the location of the depositions of the four individual agents or employees of the FBI whose positions plaintiff noticed. Mr. Rafter stated that he would oppose defendant's motion to dismiss -- also pending before the Court, would press for depositions, and would seek a conference with the Court to those ends.

WH:bg
05-2562

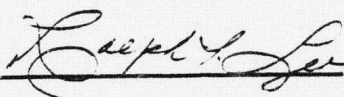
4. I noted that if this Court ordered that discovery go forward, interrogatories, not depositions would adequately satisfy plaintiff's discovery needs in this Freedom of Information Act case. Mr. Rafter rejected that notion on the ground that interrogatories contain "legal language" and that he sought facts.

5. In light of this telephone conversation, it appears that the parties cannot resolve any of the issues raised by defendant's motion to vacate notices of deposition and to stay all discovery pending the outcome of dispositive motions pending before the Court and that the Court's intervention is required.


WILLIAM HIBSHER
Assistant United States Attorney

Sworn to before me this

17th day of May, 1977



RALPH I. LEE
Notary Public, State of New York
No. 41-2292838 Queens County
Term Expires March 30, 1979

50a

When docketed please refer to Judge FRANKEL.
An oral hearing is respectfully requested on
all pending motions.

R.V.R.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(NEW)

ROBERT V. RAFTER,

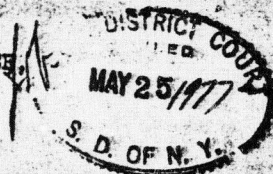
Plaintiff,

77 CIV 1131

against

FEDERAL BUREAU OF INVESTIGATION OF
OF THE UNITED STATES DEPARTMENT OF JUSTICE,

Defendant.



STATE OF NEW YORK }
COUNTY OF NEW YORK) ss.:

ROBERT V. RAFTER, being duly sworn, deposes and says:

He is the plaintiff in the above entitled action and
is an attorney at law duly admitted to practice before the
Supreme Court of the State of New York and before the United
States District Court for the Southern District of New York.

He makes this affidavit in opposition to the motion
of defendant for alternative relief and in opposition to its
motion for a protective order under Rule 26(c).

Plaintiff respectfully requests an oral hearing with
respect to all pending motions.

(1)

Plaintiff's request for access to his records is
a Privacy Act request under 552a. Defendant's defense is
taken under the public information section 552(a) of the
FOIA (Freedom of Information Act). There is no administrative
review provided in 552a, so the defense is a sham.

5/a
The alternative relief motion for dismissal, for a stay and for summary judgment should be denied in toto.

(2)

Plaintiff seeks depositions to determine the existence of New York records and the extent thereof. The complaint alleges they exist (paragraph 6) and the answer denies they exist (paragraph 7). So there is an issue of fact and depositions in this situation are customary and form an integral and indispensable part of plaintiff's case.

Defendant's motion for a protective order should be denied, immediate discovery should be ordered under Rule 26(c).

(3)

Plaintiff's motion for partial summary judgment is pending (returnable 19 April). No General Rule 9(g) statement has been filed by defendant, so the facts set forth in plaintiff's 9(g) statement are deemed admitted. Plaintiff's motion should be granted just as a matter of due process.

(4)

Plaintiff contests the validity of the Attorney General's regulation transforming a privacy access request for New York records to a request for Washington documents only. There are duplicative records in New York. See letter

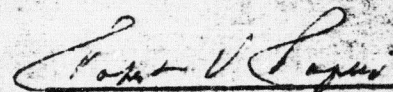
1. The invalidity argument is set forth briefly in plaintiff's memorandum of law appended hereto at POINT IV.

32a
of Mr. LA PRADY 1 October 1976:

"The referral is in lieu of local access
to possible duplicative materials in our
field office files".

WHEREFORE, it is respectfully submitted that an
order should be entered (1) denying defendant's alternative
relief motion, (2) denying defendant's motion for a pro-
tective order, (3) granting plaintiff's motion for partial
summary judgment, and (4) granting plaintiff's request for
a Rule 26(a) order for discovery.

27c, 27



ROBERT V. RAFTER

Subscribed and sworn to before me
this 25 day of May 1977.


Notary Public.

SUE TOMMASINO
Notary Public, State of New York
No. 24-4510207
Qualified in Kings County
Commission Expires March 30, 1978

WH:im
77-1022

53a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
ROBERT B. RAFTER, :

Plaintiff, :

-v- :

FEDERAL BUREAU OF INVESTIGATION
of the UNITED STATES DEPARTMENT
OF JUSTICE, :

Defendant. :

REPLY AFFIDAVIT

77 Civ. 1194 (MEF)

-----x
STATE OF NEW YORK)
COUNTY OF NEW YORK :
SOUTHERN DISTRICT OF NEW YORK)

ss.:

WILLIAM HIBSHER, being duly sworn, deposes as
follows:

1. I am an Assistant United States Attorney in the office of Robert B. Fiske, Jr., United States Attorney for the Southern District of New York, attorney for the defendant in this action. I make this affidavit in reply to plaintiff's May 25, 1977 affidavit ("Rafter Aff.") in opposition to the Government's motion to dismiss, or, alternatively for a stay of this action pending the conclusion of the administrative process designed to meet requests, under the Privacy Act and Freedom of Information Act. This affidavit is also offered in reply to plaintiff's affidavit in opposition to the Government's motion to stay discovery in this action pending resolution of the dispositive motions before the Court.

2. Plaintiff contends that his failure to exhaust administrative remedies is irrelevant to the Privacy Act. Rafter Aff., ¶1. This is incorrect. The Privacy Act empowers agencies to promulgate rules regarding an appeal

within an agency of an adverse agency determination. 5 U.S.C. §552a(f)(4). The Department of Justice has promulgated such appeal rules. 28 C.F.R. § 16.47. Plaintiff has not exhausted his administrative remedies, and his complaint should therefore be dismissed.

3. Plaintiff contends that depositions are necessary to "determine the existence of New York records and the extent thereof." I am informed by the Department of Justice that a file on plaintiff had been maintained in New York; that pursuant to Department policy, once a request for information was received, the file was transferred to Washington for processing. Thus, no issue of fact exists as to the existence of records; providing information as to the extent of records would be tantamount to the ultimate relief plaintiff seeks in this lawsuit.

4. As the Howard Affidavit, annexed to the Government's moving papers, states, the FBI in early May, 1977 was processing June, 1976 requests; thus, it can be assumed that plaintiff's request, received in mid-September, 1976, will be processed by mid-August, 1977. The Government urges the Court, if the motion to dismiss is denied, to grant a stay of all judicial proceedings in this matter for a reasonable period pending the outcome of the administrative process, at the conclusion of which plaintiff may be given access to all information requested, rendering this suit moot. We note too that plaintiff's affidavit offers no reason why his request should be given preferential treatment over the thousands of requests which are being processed in order of receipt. See discussion of Open America v. Watergate

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Special Prosecution Force, 547 F.2d 605 (D.C. Cir. 1976) at pp. 10-12 of the Memorandum of Law in Support of the Government's Motion to Dismiss, for Summary Judgment, or for a Stay.

William Hibsher

WILLIAM HIBSHER
Assistant United States Attorney

Sworn to before me this
31st day of May, 1977.

Pauline P. Trola

PAULINE P. TROLA
Notary Public, State of New York
No. 31-4832381
Qualified in New York County
Commission Expires March 30, 1978

56a

When docketed please refer
to Judge Frankel.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X - - - - - XX

ROBERT V. RAFTER,

(MEF)

Plaintiff,

77 CIV. 1131

- against -

FEDERAL BUREAU OF INVESTIGATION
OF THE UNITED STATES DEPARTMENT
OF JUSTICE,

NOTICE OF MOTION
FOR ORDER OF DIS-
COVERY.

Defendant.

X - - - - - X

S I R S :

PLEASE TAKE NOTICE that upon the annexed affidavit
of ROBERT V. RAFTER, sworn to the 24th day of June 1977, and
upon all the proceedings heretofore had herein, the undersigned
will move this court at a motion term thereof to be held at
Room 706 of the United States District Courthouse, Foley Square,
New York, New York, on the 1st day of ^{July} ~~June~~ 1977, at 10:00
o'clock in the forenoon of that day, or as soon thereafter as
counsel may be heard, for and order pursuant to Rule 26(c)
and Rule 37 of the Federal Rules of Civil Procedure permitting
and compelling discovery by deposition of the proposed deponents
served herein with notices 4 May 1977, and for such other and
further relief as to the court shall seem just and equitable.

Dated: New York, New York
22 June 1977

Yours, etc.

ROBERT V. RAFTER
Attorney for plaintiff pro se
c/o Pro Se Clerk
Room G 33
U.S. District Court
U.S. Courthouse
Foley Square, New York, N.Y.
10007

TO: WILLIAM J. HIESHER
Assistant U.S. Attorney
Attorney for Defendant
One St. Andrew's Plaza
New York, New York
10007

57a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X ----- X

ROBERT V. RAFTER,

(MEF)

Plaintiff,

77 CIV. 1131

- against -

FEDERAL BUREAU OF INVESTIGATION
OF THE UNITED STATES DEPARTMENT
OF JUSTICE,

AFFIDAVIT IN SUPPORT
OF MOTION TO COMPEL
DISCOVERY DEPOSITIONS.

Defendant.

X ----- X

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

ROBERT V. RAFTER, being duly sworn, deposes and says:

He is the plaintiff abovenamed and is an attorney
at law duly admitted to practice before the United States
District Court for the Southern District of New York.

He makes this affidavit in support of his motion for
and order compelling deposition of the five proposed deponents
noticed by service 4 May 1977.

In compliance with General Rule 9(f) plaintiff by
telephone 22 June 1977 attempted to persuade Mr. Hibsher to
schedule the depositions but all to no avail. Mr. Hibsher
requested that I make this motion to compel or permit dis-
covery.

Respectfully calling to the court's attention the
oral hearing held herein 13 June 1977, the protective order
was granted in part suspending depositions until the records
were furnished by Washington. The records (in part) were
transmitted to plaintiff received 17 June 1977 dated 14 June
1977.

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The records divulged fail to meet the accuracy and fairness standards of section 552a (g)(1)(C) and (D), nor are they complete. Accordingly, plaintiff seeks testimony in deposition form on the issue of whether the agency acted in a manner which was intentional or willful using the terminology of section 552a (g)(4) of the act. The complaint seeks damages, production of all records and amendment rights. All of these matters involve issues of fact and the oral testimony of the proposed deponents is indispensable to plaintiff's case.

Plaintiff respectfully requests an early date for examination of all. He has been delayed some fifty days to date. Plaintiff has announced his willingness to hold the examinations at sixty-ninth street to avoid undue interruption of work schedules.

In brief, depositions are needed to prove existence of other records, the extent thereof, damaging effects, intentional and willful conduct, and sham investigation.

WHEREFORE, plaintiff respectfully requests an order permitting and compelling depositions and for such other and further relief as to the court shall seem just and equitable.

ROBERT V. RAFTER

Subscribed and sworn to
before me this 27th day of
June 1977.

Notary Public.

WJH:mkb
77-1022
E-15

592
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
ROBERT V. RAFTER, :

Plaintiff, :

- against - :

FEDERAL BUREAU OF INVESTIGATION :
of the United States :
Department of Justice, :

Defendant. :

STATEMENT PURSUANT TO
RULE 9(g)

77 Civ. 1131 (MEF)

----- x
The defendant, by its attorney, Robert B. Fiske, Jr., United States Attorney for the Southern District of New York, for its statement pursuant to Rule 9(g) of the General Rules of the United States District Court for the Southern District of New York, contends that there is no genuine issue of fact to be tried as to the following material facts:

1. On June 14, 1977, defendant answered plaintiff's Freedom of Information Act request, forwarding to plaintiff 21 excised pages of documents comprising plaintiff's file.

2. The material exempted consisted of the names of special F.B.I. agents responsible for the relevant investigations.

WJH:mkb
77-1022
E-15

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WHEREFORE, on the basis of the foregoing, the annexed affidavits of William Hibsher and Thomas W. Richardson, and supplemental memorandum of law, the Government respectfully requests summary judgment dismissing the complaint herein.

Dated: New York, New York

July 12, 1977

ROBERT B. FISKE, JR.
United States Attorney for the
Southern District of New York
Attorney for Defendant.

By: *William Hibsher*
WILLIAM HIBSHER
Assistant United States Attorney
Office and Post Office Address:
One St. Andrew's Plaza
New York, New York 10007
Telephone: (212) 791-1959

WJH:mb
77-1022
E-15

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
ROBERT V. RAFTER, :

Plaintiff, :

AFFIDAVIT

- v - :

77 Civ. 1131 (MEF)

FEDERAL BUREAU OF INVESTIGATION :
of the United States :
Department of Justice, :

Defendant. :

----- x
STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

WILLIAM HIBSHER, being duly sworn, deposes as
says:

1. I am an Assistant United States Attorney in the office of Robert B. Fiske, Jr., United States Attorney for the Southern District of New York, attorney for the defendant in this action. I make this affidavit in support of defendant's cross-motion for summary judgment; plaintiff's motion for partial summary judgment is now pending before the Court. Also pending before the Court is defendant's motion to dismiss the complaint on jurisdictional grounds.

Procedural Background

2. Plaintiff Robert V. Rafter, as attorney pro se, commenced this Freedom of Information Act ("FOIA") action by filing a complaint on March 8, 1977. On April 5, 1977, plaintiff moved for partial summary judgment. On April 27,

WJH:mb
77-1022
E-15

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the defendant filed a timely answer to the complaint. On May 1, 1977, plaintiff noticed the deposition of defendant through four named individual employees or agents for May 19, 1977 and the deposition of a non-party, James Porter, Esq., Chief Counsel to the Bar Association of the City of New York, for May 20, 1977. On May 14, 1977, defendant filed a motion to dismiss the complaint for failure to exhaust administrative remedies. Defendant also filed a motion for a protective order staying all discovery in the action.

3. Oral argument on the above motions was held on June 13, 1977. Following oral argument, the Government, by letter of that date, represented to the Court that plaintiff would receive an answer to his FOIA request by June 27, 1977.

4. Oral argument was again heard on June 14, 1977, at which time your Honor stayed all proceedings in the action until June 27, 1977.

Plaintiff has Received Copies
of Documents in His F.B.I. File

5. As the affidavit of Thomas W. Richardson ("Richardson Aff."), annexed hereto, states, the F.B.I. responded to plaintiff's request on June 14, 1977, furnishing him with 21 excised pages of documents. (Richardson Aff., ¶15.) The F.B.I.'s June 14, 1977 letter (Richardson Aff., Ex. L), sets forth the procedure which plaintiff must follow to appeal the agency's action.

WJH:mkb
77-1022
E-15

63a

6. Though almost complete disclosure has been made, plaintiff has nevertheless, moved this Court for an order compelling the depositions of the four named F.B.I. agents or employees.

Only the Agents' Identities
Have Been Withheld

7. According to the Richardson Affidavit, the only excision from plaintiff's file prior to forwarding copies of documents was removal of the names of special agents responsible for the investigation. (Richardson Aff., ¶ 17.) Copies of the documents forwarded to plaintiff are annexed as Exhibit L to the Richardson Affidavit.

8. The F.B.I. properly withheld the identities of agents' names appearing on the documents comprising plaintiff's file pursuant to the statutory exemption contained in 5 U.S.C. § 552(b)(7)(C), which allows for deletion of material which would "constitute an unwarranted invasion of personal 'privacy'". As the Richardson Affidavit states, identification of F.B.I. agents could cause public exposure and adversely affect their abilities to perform their duties. (Richardson Aff., ¶18.)

9. Based on the fact that plaintiff has received complete disclosure, except for the excision of agents' identities pursuant to express exemption, defendant respectfully urges this Court to grant defendant's motion for summary judgment.

William H. Hisher
WILLIAM HIBSHER
Assistant United States Attorney

Sworn to before me this

18th day of July, 1977

Pauline P. Troia
PAULINE P. TROIA
Notary Public, State of New York
No. 81-4532381
Qualified in New York County
Commission Expires March 30, 1978

64a

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ROBERT V. RAFTER,

Plaintiff,

v.

Civil Action No. 77 CIV1131

FEDERAL BUREAU OF INVESTIGATION, et al.,

Defendants

AFFIDAVIT

I, Thomas W. Richardson, being duly sworn, depose as follows:

(1) I am a Special Agent of the Federal Bureau of Investigation (FBI), United States Department of Justice (USDJ), assigned to the Freedom of Information-Privacy Acts (FOIPA) Branch, Records Management Division, FBI Headquarters (FBIHQ), Washington, D. C.

(2) I am familiar with plaintiff's Freedom of Information Act (FOIA) request for access to FBI records, having reviewed said request and FBI documents responsive thereto.

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(3) By letter dated August 23, 1976, directed to the Office of New York Director, Federal Bureau of Investigation, 3rd Avenue and 69th Street, New York, New York, the plaintiff requested under FOIA "disclosure of any file or information maintained by the Bureau." Attached hereto as Exhibit A is a true copy of plaintiff's letter dated August 23, 1976.

(4) By letter dated August 27, 1976, receipt of plaintiff's letter of August 23, 1976, was acknowledged by the New York Field Office of the FBI. Plaintiff was requested to resubmit his request furnishing his full name, complete address, date and place of birth and a notarized signature. Attached hereto as Exhibit B is a true copy of this letter.

(5) By letter dated September 4, 1976, plaintiff submitted the requested additional information and his notarized signature. A true copy of his letter is attached hereto as Exhibit C.

(6) By letter dated September 15, 1976, the New York Field Office acknowledged having received plaintiff's letter of September 4, 1976, and advised him that under the regulations of the United States Department of Justice his request was being referred to FBI Headquarters, Washington, D. C., for reply. His request was received at FBI Headquarters on September 17, 1976. Attached hereto as Exhibit D is a true copy of this letter.

(7) By letter dated September 22, 1976, plaintiff inquired "...while we are waiting for an answer from Washington to emerge may I come in and review the record in the New York Office and have a copy made of all or a portion in the words of the statute" and he further stated: "In your letter of 27 August 1976, you indicated a search of the New York records would be made. Also your referral of the entire matter to Washington might have the effect of eliminating suit in the southern district." Attached hereto as Exhibit E is a true copy of this letter.

66a

(8) By letter dated October 1, 1976, plaintiff was advised by our New York Field Office that "Your request falls within criteria of Title 28, Code of Federal Regulations, Section 16.57 (C) (1)." A copy of this subsection of the regulations of the Attorney General was enclosed for his information. In accordance with these regulations, the request was referred to FBI Headquarters, Washington, D. C., for reply. This referral was in lieu of local access to possible duplicate materials in our field office files.

(9) The Code of Federal Regulations, Section 16.57 (C) (1) states "Where the investigative activities involved have been reported to FBI Headquarters, records maintained in the FBI's central files will be processed."

(10) By letter dated October 1, 1976, FBI Headquarters advised plaintiff his FOIPA request had been forwarded to FBIHQ by the New York Field Office and was received September 17, 1976. He was further advised "Since January 1, 1975, the FBI has received a total of 26,242 FOIPA requests. Of these, our present backlog is 7,504. In an effort to deal fairly with any request requiring the retrieval, processing and duplication of documents, each request is being handled in chronological order based on the date of receipt. Please be assured that your request is being handled as equitably as possible and that all documents which can be released will be made available at the earliest possible date." Attached hereto as Exhibit G is a true copy of this letter.

(11) By letter dated October 24, 1976, addressed to the Seattle, Washington, FBI Office, plaintiff requested "all information relating to me on file with your Bureau." A true copy of this letter is attached hereto as Exhibit H.

(12) By letter dated November 5, 1976, the Seattle FBI Office advised plaintiff his letter was received November 1, 1976, and "...a search of the Index to our Field Office records systems of investigations conducted by the Federal Bureau of Investigation revealed no record identifiable with you." A true copy of this letter is attached hereto as Exhibit I.

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(13) By letter dated November 30, 1976, addressed to the New Haven, Connecticut, FBI Office, plaintiff requested "information relating to me on file with your office." This letter was notarized December 15, 1976. A true copy of his letter is attached hereto as Exhibit J.

(14) On January 21, 1977, the New Haven FBI Office corresponded with plaintiff and advised him "...our field office files indicate you have never been the subject of any investigation by the New Haven Office of the Federal Bureau of Investigation.

The New Haven Office is in receipt of previous correspondence from you to the New York Office of the FBI concerning a similar request of that office. This correspondence indicates that our headquarters in Washington, D. C. is processing this request." A true copy of this letter is attached hereto as Exhibit K.

(15) By letter dated June 14, 1977, we responded to plaintiff's FOIA request and furnished him with twenty-one excised pages of documents. Plaintiff was advised of the procedure to be followed in appealing any statutory excisions we had made under FOIA. (A true copy of this letter is attached hereto and made part hereof as Exhibit L) (The documents released are attached hereto.)

II. Identification of the Records Within the
Scope of Plaintiff's Request

(16) Administrative, applicant, personnel, general and investigative files compiled for law enforcement purposes are maintained in the "FBI Central Records System" of the Records Management Division. This system consists of a numerical sequence of files broken down according to subject matter. The subject matter of a file may relate to an individual, organization, company, publication, or foreign intelligence activity. A Central Records System enables us to be certain we maintain, in one centralized location, all pertinent information in the possession of the FBI deemed worthy of retention which has been acquired in the course of fulfilling our investigative responsibilities. Access to this system is afforded by the FBI's General Indices, arranged in alphabetical order, consisting of approxi-

68a

mately 60 million index cards on various subject matters, including names of individuals. The index cards fall into two general categories: "main" index cards and "see" (short for "see references or cross-reference") index cards. A "main" index card carries the name of an individual, organization, activity, or the like, which is the main subject of the file contained in the system. A "see" index card bears the name of an individual, organization, activity, or the like, which is referred in, but is not the main subject of, a file maintained in the system. Generally, "see" references contain insufficient background or other information by which a positive identification can be made with a given name. In many instances receipt of additional identifying information can assist in making a positive identification. Communications originating at FBIHQ and those received from FBI Field Offices and sources outside the FBI are sent to the Records Management Division at FBIHQ for their entry into the appropriate file of the Central Records System.

(17) To locate the information requested by plaintiff, a search was made of the General Indices to our Central Records System for "main" and "see" index cards identifiable with plaintiff. As a result of this search, we located a "see" or "cross reference" index card bearing plaintiff's name, which directed us to three documents captioned Floyd F. Blackmon, Deputy Sheriff, Fairfield County, Connecticut; Lee Spiegelman; Koizim and Davidoff, Attorneys; Robert V. Rafter - Victim.

(a) Investigation in the above matter was initiated when plaintiff voluntarily appeared at the New York Office of the Federal Bureau of Investigation on July 10, 1967, and advised that he wanted to make a complaint concerning a conspiracy to violate his civil rights, Title 18, United States Code, Section 241.

(b) The following is an inventory of documents in our files with a description of all items not released to plaintiff on June 14, 1977 (see paragraph 15, supra).

69a

DOCUMENT 1

Date: July 12, 1967

Communication: One page letter from the Special Agent in Charge, New York to the Director, FBI enclosing a seven page letterhead memorandum from the New York Office of the FBI, with nine pages of documents provided by plaintiff to the New York Office.

Number of pages: 17

Pages released: 17

Recorded results of interview or investigation: Yes

Exemptions applied: (b) (7) (C)

Description of exempted material: Names of Special Agents responsible for the investigation pursuant to (b) (7) (C).

DOCUMENT 2

Date: July 13, 1967

Communication: One page Airtel from Special Agent in Charge, New Haven to Director, FBI.

Number of Pages: 1

Pages Released: 1

Recorded results of interview or investigation: Yes

Exemptions applied: None.

DOCUMENT 3

Date: July 28, 1969

Communication: One page letter from the Special Agent in Charge, New Haven to Director, FBI enclosing a two-paged letterhead memorandum.

Number of Pages: 3

Pages Released: 3

Recorded results of interview or investigation: Yes

Exemptions applied: (b) (7) (C)

Description of exempted material: Names of Special Agents responsible for the investigation pursuant to (b) (7) (C).

70a

III Comments as to the Application of the

(b) (7) (C) Exemption

(18) Information pertaining to the application of the exemptions permitted under the FOIA regarding the excisions in the document released is set forth below:

Unwarranted Invasion of Privacy

Title 5, United States Code, Section 552, subsection

(b) (7) (C), which allows for deletion of material which would "constitute an unwarranted invasion of personal privacy," has been asserted to protect the names, background data, and other identifying information of third parties appearing in documents. It is incumbent upon the FBI to protect the right of privacy of these individuals or it will be lost forever. Under this subsection, names of Special Agents were excised. To identify by name the Special Agents responsible for the investigation could cause public exposure or harassment of Special Agents and their families, which is unwarranted and would inevitably affect their ability to perform their responsibilities. Any release pursuant to the FOIA must be considered a release to the public.

Thomas W. Richardson
THOMAS W. RICHARDSON
Special Agent
Federal Bureau of Investigation
Washington, D. C.

Subscribed and sworn to before me this 21st day of June,
1977.

My Commission Expires September 14, 1981

Michael M. Foster
Notary Public

71a

DOCUMENT BY DOCUMENT ITEMIZATION

File 44-0-7843

Serial Number or
Document Number
Listed Below

Description
of
Document

Pages
ACT REL

Deletion & exemption cited following
the factual description of the
information deleted

Cross
Reference

New York Airtel
to FBIHQ
7/12/67

1

1

None

New York LHM
dated 7/12/67
and enclosures

16

16

Name of FBI Agents

(b) (7) (C)

722

file 44-0-7867

Serial Number or
Document Number
Listed Below

Description
of
Document

Pages
ACT REL

Deletion & exemption cited following
the factual description of the
information deleted

Cross
Reference

New Haven Airtel to FBIHQ
7/13/67

1 1

None

73a

File 44-0-13103

Serial Number or
Document Number
Listed BelowDescription
of
DocumentPages
ACT RELDeletion & exemption cited following
the factual description of the
information deletedCross
ReferenceNew Haven
Airtel to
FBIHQ 7/28/67

1

1

Name of FBI Agent

(b) (7) (C)

New Haven
LHM dated
7/28/67

2

2

Name of FBI Agent

(b) (7) (C)

74a

75a
Robert Rafter
1 North Avenue
Weston, Connecticut 06880

23 August 1976

Office of New York Director
Federal Bureau of Investigation
Third Avenue and 69th Street
New York, New York

Dear Sir:

Request is hereby made for disclosure of any file
or information maintained by the Bureau with respect
to the undersigned. This request is made pursuant to
the Freedom of Information Act.

Thanking you for your cooperation, I remain

Sincerely yours,

Robert V. Rafter
ROBERT V. RAFTER

EXHIBIT A

76a

201 East 69th Street
New York, New York 10021
August 27, 1976

Mr. Robert W. Rafter
1 North Avenue
Weston, Connecticut 06880

Dear Mr. Rafter:

This is in reply to your letter of August 23, 1976 which makes request for possible records in your name.

As you may be aware, the Privacy Act of 1974, Title 5, United States Code, Section 552a, became effective on September 27, 1975. Since that date, we have been processing requests from individuals, seeking access to records of the Federal Bureau of Investigation under the Privacy Act. I believe this statute would apply to your request.

I am enclosing a copy of an information sheet and sample letter application you may use to resubmit your request in a form which would permit us to cause a search of the files of the New York Office of the Federal Bureau of Investigation for any reference identifiable with you. If you desire to resubmit your letter request, please furnish your full name, your complete address, your date and place of birth, and a notarized signature.

I regret that we will be unable to take any action to process your request until it is resubmitted.

Sincerely yours,

J. WALLACE LA PRADE
Assistant Director in Charge

EXHIBIT B

8 77e
ROBERT V. RAPTER
One North Avenue
Weston, Connecticut 06883

4 September 1976

J. Wallace La Prade, Esq.
Assistant Director in Charge
Federal Bureau of Investigation
201 East 69th Street
New York, New York.

Re: Privacy Access request.

Dear Sir:

Referring to my letter of 23 August and your reply 27 August 1976, I again request information relating to me on file with your bureau.

In accordance with your regulations I truthfully furnish the following information to establish my identity:

FULL NAME ROBERT V. RAPTER
ADDRESS One North Avenue, Weston, Conn. 06883
BIRTH DATE 19 March 1914
PLACE OF BIRTH Taunton, Massachusetts
OTHER IDENTIFYING
INFORMATION US Navy Reserve 1940-1945
Former residence 1950-1956
200 East 66th Street
New York, New York.

I swear or affirm that the information I have furnished concerning my identity is truthful. I understand the penalties at law under Title 18, USC, Sec. 1001 for making a false statement or representation, and under Title 5 USC, Sec 552a for requesting any record concerning an individual under false pretenses.

Briefly, my purpose is to obtain all the information that you have concerning me.

Very truly yours

Robert V. Rapter
ROBERT V. RAPTER

Sworn to before me
this 7th day of September 1976.

Notary
(SEAL)

Notary Public, State of New York
I.A. 240105500
Qualified to Notary Public
Certificate issued with Notary Public Seal
Commission Expires March 31, 1978

SEARCHED	INDEXED
SERIALIZED	FILED
FBI - NEW YORK	

EXHIBIT C

78a



In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

201 East 67th Street
New York, New York: 10021
September 15, 1976

Mr. Robert V. Rafter
One North Avenue
Weston, Connecticut 06883

Dear Mr. Rafter:

This is to acknowledge receipt of your completed Privacy Access Request by the New York Office (NYO) of the Federal Bureau of Investigation (FBI) on September 8, 1976.

Under the regulations of the United States Department of Justice, as applicable in relation to your request, I am referring your request to FBI Headquarters, Washington, D.C. for reply. Your patience and cooperation will be appreciated.

Sincerely yours,

J. WALLACE LA PRADE
Assistant Director in Charge



EXHIBIT D

792
Robert Rafter
1 North Avenue
Weston, Connecticut 06880

22 September 1976

J. Wallace La Prade, Esq.
Assistant Director in Charge
Federal Bureau of Investigation
201 East 69th Street
New York, New York

Re: Privacy Access request.

Dear Mr. La Prade:

Referring to your letter of 15 September 1976, while we are waiting for an answer from Washington to emerge may I come in and review the record in the New York office and have a copy made of all or a portion in the words of the statute.

In your letter of 27 August 1976 you indicated a search of the New York records would be made. Also, your referral of the entire matter to Washington might have the effect of eliminating suit in the southern district.

It has been thirty days now since the request was made. Please let me review the New York record in the interim.

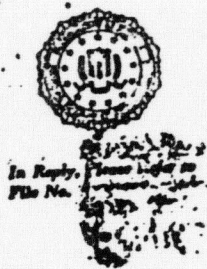
Sincerely yours,

Robert V. Rafter
ROBERT V. RAFTER

EXHIBIT E

(11 - 80a 0
UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

201 East 69th Street
New York, New York 10021
October 1, 1976



Mr. Robert V. Rafter
One North Avenue
Weston, Connecticut 06883

Dear Mr. Rafter:

This is in reply to your letter of September 22, 1976, in connection with your recent Privacy Access Request. This request was previously acknowledged by the New York Office of the Federal Bureau of Investigation on September 15, 1976.

Your request falls within criteria of Title 28, Code of Federal Regulations, Section 16.57 (C)(1). A copy of this subsection of the regulations of the Attorney General is enclosed for your information. In accordance with these regulations, your request has been referred to FBI Headquarters, Washington, D. C., for reply. This referral is in lieu of local access to possible duplicate materials in our field office files.

Sincerely yours,

J. WALLACE LA PRAD
Assistant Director in Charge

Enclosure



EXHIBIT F



ENCLOSURE

8/a

October 1, 1976

Mr. Robert V. Rafter
One North Avenue
Weston, Connecticut 06883

Dear Mr. Rafter:

This is to acknowledge receipt of your Freedom of Information-Privacy Acts (FOIPA) request, which was forwarded by our New York Office and received at FBI Headquarters on September 17, 1976.

A preliminary review of the index to our central records discloses references to a name similar to yours. Since our records contain innumerable instances of different people with the same name, and we have reviewed only the index to our records at this point, and not the records themselves, we do not know whether the records in question relate to you.

An exceedingly heavy volume of FOIPA requests has been received these past few months. Additionally, court deadlines involving certain historical cases of considerable scope have been imposed upon the FBI. Despite successive expansions of our staff responsible for FOIPA matters, substantial delays in processing requests continue.

Since January 1, 1975, the FBI has received a total of 26,242 FOIPA requests. Of these, our present backlog is 7,504. In an effort to deal fairly with any request requiring the retrieval, processing and duplication of documents, each request is being handled in chronological order based on the date of receipt. Please be assured that your request is being handled as equitably as possible and that all documents which can be released will be made available at the earliest possible date.

njg:vll

EXHIBIT G

82a.

Mr. Robert V. Rafter

We are now beginning to work on requests which we received during December, 1975.

Your patience and understanding will be appreciated.

Sincerely yours,

Clarence M. Kelley
Director

1 - Assistant Attorney General for Administration - Enclosures (2)
Attention: FOIPA Administrative Unit (Room 1134)

83a Q
ROBERT V. RAFTER
One North Avenue
Weston, Connecticut 06883

24 October 1976

Federal Bureau of Investigation
915 Second Street
Seattle, Washington

Re: Privacy Access request

Dear Sirs:

Referring to the Freedom of Information - Privacy Act
5 USC 552, 552a et seq. request is hereby made for all
information relating to me on file with your bureau.

In accordance with your regulations I truthfully furnish
the following information to establish my identity:

FULL NAME ROBERT V. RAFTER
ADDRESS One North Avenue, Weston, Conn. 06883
BIRTH DATE 19 March 1914
Place of Birth Taunton, Massachusetts
OTHER IDENTIFYING

INFORMATION

US Naval Reserve in Seattle
March 1945 to March 1945,
legal office building, Seattle
and resided on the shore of
Lake Washington.

I swear or affirm that the information I have furnished
concerning my identity is truthful. I understand the
penalties at law under Title 18, USC, Sec. 1001 for making
a false statement or representation, and under Title 5 USC,
Sec. 552a for requesting any record concerning an
individual under false pretenses.

Briefly, my purpose is to obtain all the information that
you have concerning me.

Very truly yours,)

ROBERT V. RAFTER

Sworn to before me
this 24 day of October 1976

Notary
(SEAL)

MELVIN M. BEDFORD
Notary Public, State of Washington
W. 404
Quincy, Washington County
Term Expires March 24, 1977

EXHIBIT H

84a
915 Second Avenue
Seattle, Washington 98174
November 5, 1976

Mr. Robert V. Rafter
One North Avenue
Weston, Connecticut 06883

Dear Mr. Rafter:

This is to acknowledge receipt of your Freedom of Information/Privacy Acts request by the Seattle Division of the Federal Bureau of Investigation on November 1, 1976.

In response to your request, please be advised that a search of the Index to our Field Office records systems of investigations conducted by the Federal Bureau of Investigation revealed no record identifiable with you.

Sincerely yours,

JOHN M. NEED
Special Agent in Charge
Seattle Division, FBI

Orig-Addressee

1-BU, FOIPA STATISTICAL REPORT (Enc 1)
1-BU, ASST ATTY GEN for ADMN, FOIPA (Enc 1)
2-Seattle (1 - 66-2904 Sub A-85)
(1 - 66-2904 Sub B)

ASH:kn

EXHIBIT I

852
ROBERT V. RAFTER
One North Avenue
Weston, Connecticut

06883

30 November 1976

Director in Charge
Federal Bureau of Investigation
U.S. Department of Justice
770 Chapel Street
New Haven, Connecticut

Re: Privacy Access request.

Dear Sir:

This is a request for information relating to me on file with your office.

In accordance with your regulations I truthfully furnish the following information to establish my identity:

FULL NAME ROBERT V. RAFTER
ADDRESS One North Avenue, Weston, Conn. 06883
BIRTH DATE 19 March 1914
PLACE OF BIRTH Taunton, Massachusetts
OTHER IDENTIFYING INFORMATION

Attorney at law admitted to
practice New York State and US
District Court.

I swear or affirm that the information I have furnished concerning my identity is truthful. I understand the penalties at law under Title 18, Sec. 1001, for making a false statement or representation, and under Title 5 USC, Sec. 552a for requesting any record concerning an individual under false pretenses.

Briefly, my purpose is to obtain all the information that your New Haven office has concerning me.

Sincerely yours,

Robert V. Rafter
ROBERT V. RAFTER

Sworn to before me
this 15 day of December 1976.

EXHIBIT J

ENCLOSURE

Adrian Hopkins
ADRIAN HOPKINS
Notary Public, State of New York
No. 60-687477
Qualified in Westchester County



86a
UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION
770 Chapel Street
New Haven, Connecticut 06521
Post Office Box 2058
January 21, 1977

Mr. Robert V. Rafter
One North Avenue
Weston, Connecticut 06883

Dear Mr. Rafter:

This is in response to your request of January 11, 1977, for any information concerning you in our field office files.

Please be advised that our field office files indicate you have never been the subject of any investigation by the New Haven Office of the Federal Bureau of Investigation.

The New Haven Office is in receipt of previous correspondence from you to the New York Office of the FBI concerning a similar request of that office. This correspondence indicates that our headquarters in Washington, D. C. is processing this request.

Very truly yours,

THOMAS R. EUGAN
Special Agent in Charge

EXHIBIT K

ENCLOSURE

1-891 (1-2-77)



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
RECORDS DISCLOSURE COVER SHEET
FOI/PA BRANCH
RECORDS MANAGEMENT DIVISION

JUN 14 1977

Subject of Request: Robert V. Rafter

Mr. Robert V. Rafter
One North Avenue
Weston, Connecticut 06881

Dear Requester:

Enclosed are copies of documents from our files. "Excisions" have been made from these documents and/or entire documents withheld in order to protect materials which are exempted from disclosure by the following subsections of Title 5, United States Code, Section 552 and Section 552a. The exemption number(s) indicated by a mark appearing in the block to the left of the subsection cited constitutes the authority for withholding the deleted material. (See below and reverse side of this sheet for an explanation of these exemptions.)

Section 552

- ☐ (b) (1)
- ☐ (b) (2)
- ☐ (b) (3)
- ☐ (b) (4)
- ☐ (b) (5)
- ☐ (b) (6)

- ☐ (b) (7) (A)
- ☐ (b) (7) (B)
- ☒ (b) (7) (C)
- ☐ (b) (7) (D)
- ☐ (b) (7) (E)
- ☐ (b) (7) (F)
- ☐ (b) (8)
- ☐ (b) (9)

Section 552a

- ☐ (d) (5)
- ☐ (j) (2)
- ☐ (k) (1)
- ☐ (k) (2)
- ☐ (k) (3)
- ☐ (k) (4)
- ☐ (k) (5)
- ☐ (k) (6)
- ☐ (k) (7)

The decision to withhold exempt portions of our records is the responsibility of Clarence M. Kelley, Director of the FBI.

☒ If you believe your name may also have been recorded by the FBI incident to the investigation of other persons or some organization, please advise us of the details describing the specific incident or occurrence and time frame. Thereafter, further effort will be made to locate, retrieve and process any such records.

☐ Your request for information concerning yourself has been considered in light of the provisions of both the Freedom of Information Act (FOIA) (Title 5, United States Code, Section 552) and the Privacy Act of 1974 (Title 5, United States Code, Section 552a). It has been determined by the Attorney General that requests by individuals seeking information about themselves are governed by the Privacy Act. In addition, as a matter of administrative discretion, any documents which were found to be exempt from disclosure under the Privacy Act were also processed under the provisions of the FOIA. Through these procedures, you have received the greatest degree of access authorized by both laws.

☒ You have thirty days from receipt of this letter to appeal to the Deputy Attorney General from any denial contained herein. Appeals should be directed in writing to the Deputy Attorney General (Attention: Office of Privacy and Information Appeals), Washington, D. C. 20530. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal."

☐ See additional information on continuation page.

James M. Powers

James M. Powers, Chief
Freedom of Information-Privacy Acts Branch
Records Management Division

Enclosure

EXHIBIT L

882

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b) (1) information which is currently and properly classified pursuant to Executive Order 11652 in the interest of the national defense or foreign policy
- (b) (2) materials related solely to the internal rules and practices of the FBI
- (b) (3) information specifically exempted from disclosure by statute (see continuation page)
- (b) (4) privileged or confidential information obtained from a person, usually involving commercial or financial matters
- (b) (5) inter-agency or intra-agency documents which are not available through discovery proceedings during litigation; or documents, the disclosure of which, would have an inhibitive effect upon the development of policy and administrative direction; or which represent the work product of an attorney-client relationship
- (b) (6) materials contained in sensitive records such as personnel or medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy
- (b) (7) investigatory records compiled for law enforcement purposes, the disclosure of which would: (A) interfere with law enforcement proceedings, including pending investigations; (B) deprive a person of the right to a fair trial or an impartial adjudication, or give one party to a controversy an undue advantage by exclusive access to such information; (C) constitute an unwarranted invasion of the personal privacy of another person; (D) reveal the identity of an individual who has furnished information to the FBI under confidential circumstances or reveal information furnished only by such a person and not apparently known to the public or otherwise accessible to the FBI by overt means; (E) disclose investigative techniques and procedures, thereby impairing their future effectiveness; and (F) endanger the life or physical safety of law enforcement personnel
- (b) (8) information collected by Government regulatory agencies from financial institutions
- (b) (9) geological and geophysical information, including maps, produced by private companies and filed by them with Government agencies.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d) (5) information compiled in reasonable anticipation of a civil action or proceeding
- (j) (2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminal, except records of arrest
- (k) (1) information which is currently and properly classified pursuant to Executive Order 11652 in the interest of the national defense or foreign policy
- (k) (2) material compiled during civil investigations for law enforcement purposes and which would reveal the identity of an individual who has furnished information pursuant to a promise that his identity would be held in confidence
- (k) (3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056
- (k) (4) required by statute to be maintained and used solely as statistical records
- (k) (5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his identity would be held in confidence
- (k) (6) the substance of tests used to determine individual qualifications for appointment or promotion in Federal Government service
- (k) (7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his identity would be held in confidence.

89a

FBI

Date: 7/12/67

Transmit the following in _____

(Type in plaintext or code)

Via AIRTEL

(Priority)

TO: DIRECTOR, FBI
FROM: SAC, NEW YORK (44-new)
SUBJECT: FLOYD F. BLACKMON, DEPUTY SHERIFF;
FAIRFIELD COUNTY, CONNECTICUT;
LEE SPIEGELMAN;
KOIZIM AND DAVIDOFF, ATTORNEYS;
ROBERT V. RAFTER - VICTIM
CIVIL RIGHTS

Enclosed herewith are 2 copies of an LHM captioned as above.

Two copies are also enclosed for New Haven for information, one of which is for the appropriate USA.

No further action being taken by the NYO in the absence of a specific request from the Department.

- 3 - Bureau (Encls. 2)
- 2 - New Haven (Encls. 2)
- 1 - New York

GVC:err
(7)

Agency CRD
Date Forw. JUL 13 1967
Flow Forw. 6-5: (H)
By JWH:MLC

EX-103

JUL 13 1967

Approved: 57 JUL 24 1967 Agent in Charge

Sent _____ M Per _____

90a



In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

New York, New York

July 12, 1967

Floyd F. Blackmon, Deputy Sheriff,
Fairfield County, Connecticut;
Lee Spiegelman;
Kcizim and Davidoff, Attorneys;
Robert V. Rafter - Victim
Civil Rights

CONN. DESS. N.H. 110

Robert V. Rafter, 12 Radcliffe Avenue, Rye, New
York, voluntarily appeared at the New York Office of the
Federal Bureau of Investigation on July 10, 1967, and
furnished the following information:

BORN 3-19-1914
AT TAUNTON, MASS.

This document contains neither recommendations nor
conclusions of the FBI. It is the property of the
FBI and is loaned to your agency; it and its contents
are not to be distributed outside your agency.

114-0-7843

TELETYPE

FEDERAL BUREAU OF INVESTIGATION

Date 7/12/67

91a

ROBERT V. RAFTER, age 53, an attorney, advised that he is a graduate of Princeton University and Harvard Law School. He was admitted to the New York State Bar in 1940. His residence is 10 Old Rock Road, Weston, Connecticut, but during the summer is residing at 12 Radcliffe Avenue, Rye, New York.

He stated that he wanted to make a complaint concerning a violation of Title 18, Section 241, United States Code, a conspiracy to violate his civil rights. He furnished the following information:

During the summer of 1964, from June to September, he rented a house at 130 Caterson Terrace, Hartsdale, New York, from LEE SPIEGELMAN. The rental price was \$900.00 for the summer. At the end of the summer, SPIEGELMAN claimed he had caused damage to the house in the amount of \$3000.00. This amount included \$100.00 rent which was not paid.

SPIEGELMAN brought a civil suit against him in the Court of Common Pleas, Stamford, Connecticut, in the amount of \$3000.00 for damages to the house and the rent due. SPIEGELMAN was represented by the law firm of Koizim and Davidoff, Westport, Connecticut.

On December 17, 1964, a Writ of Attachment issued by the above law firm was served on him at his home in Weston, by Deputy Sheriff FLOYD E. BLACKMON of Fairfield County, Connecticut. This Writ was dated December 10, 1964. Mr. RAFTER claimed that the copy of the Writ furnished to him, which was supposed to be a true copy, was defective as it did not contain the name of the garnishee, namely the Fairfield County Trust Company, Norwalk, Connecticut.

However, he later learned that the copy of the Writ which was served on the bank did contain the name of the garnishee written in long hand in the appropriate space and the copy furnished to the Court had the name of the

On 7/10/67 at New York, New York

File # NY 44-by [redacted] and [redacted]Date dictated 7/11/67

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

92a
NY 44-

garnishee typed in the proper space.

However, on the basis of the copy furnished to him on December 17, 1964, Deputy BLACKMON attached his 1964 Ford automobile. His bank account at the Fairfield Trust Company, Norwalk, Connecticut, was also attached. Deputy BLACKMON later admitted to him that the name of the garnishee, the Fairfield Trust Company, was inserted by him later on.

Mr. RAFTER furnished a copy of the Writ which was filed with the Court, a copy which was served on the bank and a copy which was given to him on December 17, 1964. The copy filed with the Court contained the name of the garnishee, "Fairfield County Trust Company, Norwalk, Connecticut", typed on page two. The copy served on the bank contained the same garnishee written in long hand on page two. The copy given to Mr. RAFTER did not contain this name on page two.

RAFTER represented himself in Court and from December, 1964 to May, 1965, there were many motions on jurisdiction and on the process which he claimed was defective.

On May 7, 1965, the Court denied SPIEGELMAN's attempt to amend the process to make it a proper one. On May 13, 1965, SPIEGELMAN withdrew the suit.

However, when Deputy BLACKMON originally took the Ford automobile in December, 1964, he placed it in a garage in Bridgeport. On May 7, 1965, Deputy BLACKMON, with the consent of SPIEGELMAN's attorneys, removed this car from the garage in Bridgeport, and put it in his own garage.

On May 12, 1965, SPIEGELMAN obtained a new Writ of Attachment for the car. At this time, SPIEGELMAN and his attorneys had knowledge that the Fairfield County Trust Company was going to repossess the car because two or three payments were past due, and the bank had demanded

93a

NY 44-

that he make full payment. The bank obtained the car from Deputy BLACKMON and sold it. He furnished a copy of a letter, dated May 4, 1965, directed to Sheriff FLOYD BLACKMON from VINCENT S. TIROLA, Superior Court, informing BLACKMON that the bank intended to repossess RAFTER's automobile.

He also furnished a copy of a letter, dated December 2, 1966, from the Fairfield County Trust Company directed to "To whom it may concern", stating that the bank took possession of the automobile from Sheriff BLACKMON on June 2, 1965.

In addition to the above, Deputy BLACKMON came to his house on December 15, 1964, with a Writ and asked for his 1963 Ford. He told BLACKMON he did not have a 1963 Ford and BLACKMON left. He returned, however, on December 17, 1964, apparently after learning he had a 1964 Ford.

In an attempt to recover damages, RAFTER brought a civil action in United States District Court, District of Connecticut, in May, 1966. This action, Civil Action 11458, was brought against FLOYD BLACKMON and the attorneys, KOIZIM and DAVIDOFF. In this action, he charged that his property was illegally seized and that he had been deprived of rights, privileges and immunities secured by the Constitution. He furnished a copy of this complaint, which is dated May 29, 1966.

This complaint was dismissed by Judge ZAMPANO, United States District Court on April 26, 1967. This decision is now being appealed.

In his decision, Judge ZAMPANO stated that sheriffs are immune to the provisions of Title 42, Sections 1983 and 1985. The Court stated, "It is clear that a deputy sheriff acting merely in the ministerial capacity of a process server in a State civil suit pursuant to the instructions of an attorney, is within the class of judicial officers or quasi-judicial officers that is immune from suit under the Civil Rights Act."

Regarding this decision, Mr. RAFTER claimed that the Deputy Sheriff was not acting in his ministerial capacity but was acting beyond that. He was a trespassor. The Court did not even mention the second seizure of the car in May of 1965.

94a

NY 44-

Mr. RAFTER claimed that these facts constituted a violation of Section 241, Title 18, United States Code, in that SPIEGELMAN, his attorneys, and the Deputy Sheriff and others did conspire, act in concert, to deprive him of his property without due process, and to deprive him of his right not to be deprived of his property without due process, for the purpose of threatening and oppressing him.

He pointed out that the service on him should have been by true copy. The one served on him was defective. Consequently, any seizure of property made the Deputy Sheriff a trespassor. He had no right to seize the car on December 17, 1964. In addition, he felt that he was given no security when the car was again seized on May 12, 1965.

He also stated that when the Deputy Sheriff asked him for the keys to his car on December 17, 1964, he refused at first to produce them. The Deputy then told his companion to get the handcuffs. He interpreted this as a threat and he turned over the keys.

He stated that the Writ was altered after it was served on him on December 17, 1964.

He advised that after the seizure, he had to rent a car for \$300.00 per month for a year and a half in order to get to work. He now feels that he has been oppressed and put out of business by this conspiracy.

He advised that this conspiracy was evolved by interstate phone calls and correspondence between New York and Connecticut, and therefore, Federal jurisdiction would be either in New York or Connecticut.

He furnished the following descriptive and background information concerning himself:

Name:	ROBERT V. RAFTER
Race:	White
Birth:	March 19, 1914, Taunton, Massachusetts
Height:	6 feet
Weight:	175 pounds

95a
2.
NY 44-

Eyes:
Hair:
Education:

Blue
Brown
Phillips-Exeter Academy,
Exeter, New Hampshire -
graduated 1932, Bachelor
of Arts Degree - Princeton,
1936, Bachelor of Laws
Degree - Harvard Law
School, 1939.
United States Navy, June, 1941
to November, 1945, Recd
Certificate of Satisfactory
Service
January, 1967, Connecticut
State Police, fraudulent
check - charge dismissed
Married October 15, 1947 -
Children (three)
None
United States Navy Hospital,
Bethesda, Maryland, in
1942 for six weeks (strep
throat). No other
hospitalization.
Hardy, Stancliffe, and Hardy
Attorneys, New York, New York
1936-1949
Carrier Corporation, New York
City, 1949-1951
Nationwide Insurance Company
White Plains, New York
April, 1964-January, 1965
Legal Aid Society, White
Plains, New York,
February, 1965-November, 1965

Military Service:

Arrest Record:

Marital Status:

Present Employment:
Hospitalization:

Past Employment:

96a
Floyd F. Blackmon, Deputy Sheriff,
Fairfield County, Connecticut;
Lee Spiegelman;
Loizin and Davidoff, Attorneys;
Robert V. Rafter - Victim

Copies of the documents furnished by Mr. Rafter
are attached to this memorandum in the following order:

1. Writ of Attachment given to the Court.
2. Page two of the Writ of Attachment given to
the bank.
3. Page two of the Writ of Attachment served
on Robert Rafter.
4. Letter, dated May 4, 1965, to Sheriff Floyd
Blackmon.
5. Letter, dated December 2, 1966, to "To whom
it may concern".
6. Complaint, dated May 29, 1966, made to the
United States District Court.

Copies of this memorandum are being furnished
to the United States Attorneys, Southern District of
New York and District of Connecticut.

97a

TO ALL JUSTICES OF THE COURT OF FAIRFIELD, COUNTY OF FAIRFIELD, STATE OF CONNECTICUT, AND TO ALL JUSTICES OF THE COURT OF WESTCHESTER, COUNTY OF WESTCHESTER, STATE OF NEW YORK, GREETING.

BY ATTORNEY OF THE STATE OF CONNECTICUT, You are hereby commanded to attach to the value of THREE THOUSAND (\$3,000.00) DOLLARS the goods or estate of ROBERT V. RAFTER of the Town of Weston, County of Fairfield and State of Connecticut, and his husband to appear before the Court of Common Pleas to be held at Stamford in and for the County of Fairfield on the 2nd Tuesday of January, 1965, then and there to answer unto LEE SPIEGELMAN and JOAN SPIEGELMAN of the Town of Hartsdale, County of Westchester and State of New York, in a civil action wherein the plaintiffs complain and say:

FIRST COUNT:

1. On or about June 8, 1964, the defendant entered into a lease with the plaintiffs, under their hands and seals, a copy of which is herewith annexed as Exhibit "A".
2. The defendant has not paid \$100.00, being one-third of the rent due and payable on August 1, 1964.

THE PLAINTIFFS claim \$150.00 damages.

SECOND COUNT:

44-0-7843

1. The plaintiff hereby repeats and realleges paragraph 1 of the First Count as paragraph 1 of the Second Count.
2. The defendant covenanted in said lease that he would, during the term of said lease, at his own cost, keep the premises in good repair and at the expiration of said term would leave said premises in as good condition as he received

ENCLOSURE

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the most reasonable wear and tear accepted.

3. The defendant occupied said premises during said term and during his occupancy the following damage was wrongfully done to the premises and to the plaintiffs' personal property situated on said premises:

- a. Rotted carpet caused by water;
- b. Slip covers for chairs and sofa torn;
- c. Walls and ceilings stained and dirtied;
- d. Broken windows, electric fixtures, door handles, screen doors and wood paneling;
- e. Porch floor surface dug up;
- f. Flower beds and lawn plantings destroyed;
- g. Refrigerator door broken;
- h. Intercom broken;
- i. Television antenna broken;
- j. Three garden hoses cut;
- k. Antique table chipped and stained;
- l. Window shades broken;
- m. Umbrella stand broken;
- n. Pair of candle sticks missing.

4. As of the date hereof the defendant has never repaired or offered to repair the aforesaid damages although due demand has been made on the defendant to do so or to pay for such repairs.

5. By reason thereof, said injuries have cost the plaintiffs or will cost the plaintiffs \$2,160.55 to repair and replace.

THE PLAINTIFFS claim \$2,750.00 damages.

You are hereby commanded to leave a true and attested copy of this writ and of the accompanying complaint at least twelve (12) days before the session of court to which it is made returnable with

The Fairfield County Trust Co., Norwalk, Conn.
legal corporations organized and existing under the laws of

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... of the United States respectively and located and having an office and principal place of business in the Town of NORWALK, Conn., at their usual place of abode, as they are the agents, trustees and debtors of said defendant, and have concealed in their hands the goods, effects and estate of said defendant and are indebted to him.

And you are further commanded to summon said garnishees to appear before said Court at the time and place first mentioned, then and there to disclose on oath whether they have concealed in their hands the goods, effects or estate of said defendant or are indebted to him.

Ellen Koizim of Westport, Connecticut, is recognized in the sum of \$100 to prosecute, etc.

Of this writ with your doings thereon make due service and return.

Dated at Westport, Connecticut, this 16th day of December, A.D. 1964.

Vincent S. Tirola
VINCENT S. TIROLA
Commissioner of the Superior Court

No. 5845

LEE SPIEGELMAN, ET AL

vs.

ROBERT V. RAFTER

STATE OF CONNECTICUT

Fairfield County ss. Court of Common Pleas

I, Henry F. Shannon, Clerk of the Court of Common Pleas, Fairfield County at Stamford, hereby certify that the within and foregoing is a true copy of the original Writ, Summons and Complaint and Sheriff's returns

in said cause, as on file and of record appears.

In witness whereof, I have hereunto set my hand and the Seal of said Court at Stamford, in said County, this 16th day of November, 1966

100a

S. Antomino, Jr.

Chris Hetherington, Jr.

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD

} ss: Norwalk 17 December, 1964

Then and there by virtue of the original writ I attached as the property of the within named Defendant

Robert V Rafter

all goods, effects, money and debts due to or belonging to the within named Defendant and in the hands or possession of the within named Garnishee by leaving with ~~W. I. Mitchell~~

W. I. Mitchell, Asst Vice President, Fairfield County Trust Co
Norwalk, Conn

a true and attested copy of this writ, complaint and process at least six twelve days before the session of the court to which this writ is returnable, said Garnishee being named therein and described as the Agent Trustee and Debtor of the said Defendant and said Garnishee having been duly inquired of by me, disclosed that he it they owed the said Defendant at the date hereof the sum of \$ No disclosure and I made diligent search throughout my precinct for other goods and estate of said Defendant whereof to attach but could find none.

And afterwards on the 17 day of December 19 64 I left at the usual place of abode of Robert V Rafter the Defendant a true and attested copy of the original writ, summons and complaint with my doings thereon endorsed. The within and foregoing is a true copy of the original writ, summons and complaint with my doings thereon endorsed.

Fees
Travel 5.50
Copies 1.00
Services 1.00
Endorsements 1.20
Securing Property 2.50
11.50

Attest
Floyd F. Blackmon
Floyd F. Blackmon

Deputy Sheriff for Fairfield County.

44-0-784

10/a

Sheriff Floyd Blackman
44alley Blvd.
Fairfield, Connecticut

May 4, 1965

RE: Rafter Auto

Dear Floyd:

The Fairfield County Trust repossession department contacted me this week. They hold a priority lien with an auto presently under attachment and in your possession belonging to Mr. Robert Rafter of Weston, Connecticut.

The Bank intends to repossess Mr. Rafter's auto for delinquent payments as they hold the first security interest and have a prior lien to our attachment. You will have no alternative but to release the vehicle to them when they present you with the proper credentials and payers.

Be sure to obtain a receipt from the Bank for the auto.

Very truly yours,

Vincent S. Tirola

State of Connecticut
VST:md

County of Fairfield (96 Fairfield, 1 December, 1966

Certified a true copy of the original

Attest: *[Signature]*
Floyd F. Blackman
Deputy Sheriff of Fairfield County

*pfy's ex F. for Idet.
4/12/66*

44-0-7843

ENCLOSURE

172-85
6402 mi

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT
X * * * * *

ROBERT V. RAFTER,
Plaintiff,

- against -

FLOYD BLACKMON and
KOIZIM & DAVIDOFF,
Defendants.

COMPLAINT
Civil No.

X - - - - - X

ROBERT V. RAFTER, the plaintiff above named, appearing pro se, for his complaint herein alleges:

FIRST: This action arises pursuant to the provisions of Title 42 U.S.C., Sections 1983 and 1985.

SECOND: Jurisdiction is invoked under the provisions of Title 28 U.S.C., Section 1343.

THIRD: At all times hereinafter mentioned plaintiff was a citizen of the United States, domiciled in Weston, Connecticut.

FOURTH: At all times hereinafter mentioned the defendant, FLOYD BLACKMON, was a deputy sheriff for the County of Fairfield, State of Connecticut, residing in Fairfield, Connecticut.

FIFTH: At all times hereinafter mentioned the defendant, KOIZIM & DAVIDOFF, was a law partnership having offices in the City of Westport, Connecticut.

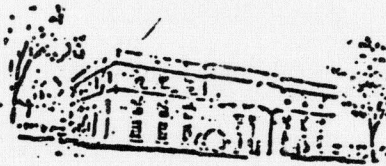
SIXTH: Defendants and others conspired for the purpose of impeding, hindering, obstructing, or defeating the due course of justice in the State of Connecticut, with the intent to deny plaintiff the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce his right to the equal protection of the laws.

SEVENTH: Defendants and others acting jointly under color of the statutes of the State of Connecticut subjected the plaintiff, or caused the plaintiff to be subjected, to the

44-0-7873

ENCLOSURE

103a-



The Fairfield County Trust Company

NORWALK OFFICE
NORWALK, CONNECTICUT
TEL. 555-1234

December 2, 1966

To Whom It May Concern:

Please be advised that on June 2, 1965, we took possession of a 1964 Ford convertible, bearing serial no. #4465X285016 from Sheriff Blackman.

We had a lien on this vehicle under a conditional sales contract dated October 5, 1964 and the account was in the arrears for three payments at the time of repossession.

Very truly yours,

R. Finn
Credit Department

RF:pg

pf's in G. for Ident
EL 12/19/66

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deprivation of rights, privileges, and immunities secured by the Constitution of the United States including but not limited to those rights, privileges, and immunities secured by the Fourth, Fifth, and Fourteenth Amendments of the Constitution.

EIGHTH: Defendants and others acting in concert pursuant to the conspiracy aforesaid and in furtherance of said conspiracy performed the following overt acts, inter alia:

(a) On December 10, 1964, caused an invalid writ of attachment to issue in a certain civil action before the Court of Common Pleas for the County of Fairfield held at Stamford, Connecticut, bearing Index Number 5845 - 1964;

(b) Wrongfully seized and took possession of property of plaintiff on December 17, 1964, and deprived him of the use and possession thereof;

(c) Through collusion, misrepresentation, deceit and fraudulent legal proceedings before the said Court of Common Pleas deprived plaintiff of his right to vacate the said writ of attachment during the period from December 1964 to April 1965;

(d) Wrongfully failed and refused to return plaintiff's property after the Court of Common Pleas determined that the writ of attachment was defective and denied motions to amend the process;

(e) Wrongfully removed plaintiff's property from its place of custody and concealed same;

(f) Wrongfully seized and took possession of plaintiff's property pursuant to a writ of attachment issued May 12, 1965, in a certain action before the said Court of Common Pleas, bearing Index Number 6174 - 1965;

(g) Wrongfully caused plaintiff's property to be seized and sold on or about the 1st day of June, 1965, by the Fairfield County Trust Company of Norwalk, Connecticut;

(h) Refused to appear or testify pursuant to summons duly served on December 29, 1964, before the Court of Common Pleas for the County of Fairfield held at Bridgeport, Connecticut, and performed acts of perjury and subornation of perjury on December 29, 1964, and March 28, 1966, in furtherance of said conspiracy and joint action and for the purpose of concealing the conspiracy herein alleged and the joint action of the defendants and other persons.

NINTH: That the said conspiracy and the overt acts pursuant thereto were the result of joint action between and among the defendant law firm, its principals, partners, agents and employees, and the State of Connecticut or its agents, and other persons.

TENTH: That by reason of said conspiracy and joint action the due course of justice in the State of Connecticut has been impeded, hindered, obstructed or defeated, and plaintiff has been injured in his person and property and has been deprived of rights, privileges, and immunities secured by the Constitution of the United States and denied equal protection of the laws, including, but not limited to, the right not to be deprived of property without due process of law.

WHEREFORE, plaintiff demands damages in the sum of Fifty Thousand Dollars, together with interest and costs.
Dated: May 29, 1966

ROBERT V. RAFFER
Attorney for Plaintiff
10 Old Rock Road
Weston, Connecticut.

106a

FBI

Date: 7/13/67

Transmit the following in _____

(Type in plaintext or code)

Via AIRTEL

(Priority)

TO: DIRECTOR, FBI
FROM: SAC, NEW HAVEN (44-0)
FLOYD F. BLACKMON, DEPUTY SHERIFF,
FAIRFIELD COUNTY, CONNECTICUT;
LEE SPIEGELMAN;
KOZIM AND DAVIDOFF, ATTORNEYS;
ROBERT V. RAFTER - VICTIM
CIVIL RIGHTS

Re New York airtel 7/12/67, with enclosures.

In the absence of any specific instructions from the Bureau,
no action being taken by New Haven concerning this matter.

(3-Bureau
1-New York (info)
1-New Haven
TLG/lrf
(5)

EC-Met

REC-50
ST-104

44-0-7861

10 JUL 14 1967

51 JUL 21 1967

Approved: C. E. [Signature]
Special Agent in Charge

Sent _____ M Per _____

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI

DATE: 7/28/69

FROM : SAC, NEW HAVEN (44-0-118) (C)

SUBJECT: FLOYD F. BLACKMON, DEPUTY SHERIFF,
FAIRFIELD COUNTY, CONNECTICUT;
LEE SPIEGELMAN;
KOIZIM AND DAVIDOFF, ATTORNEYS;
ROBERT V. RAFTER - VICTIM
CIVIL RIGHTS

RE: NY airtel to Bureau, 7/12/67;
NH airtel to Bureau, 7/13/67.

Enclosed herewith for the Bureau are four copies of an LHM dated and captioned as above and for NY three copies in view of their interest in this matter, one copy of which is being disseminated to Mr. GAYNOR, USA's Office, SDNY.

A copy of enclosed LHM reflecting USA JONES' declination is being forwarded to him.

[REDACTED] appeared at the Office of the USA, STEWART H. JONES, on 7/23/69, at 11:00 a.m. following his request that an agent appear there since an unidentified attorney was to appear at that time with a complaint alleging violation of his civil rights.

JONES, following the appearance of ROBERT V. RAFTER, advised that based upon information furnished by RAFTER there was no violation of his civil rights. However, JONES noted that he desired to contact Mr. GAYNOR, USA's Office, SDNY, to obtain information relative to the alleged violation appearing in the files there.

JONES stated that if anything therein warrants action, he would notify the FBI, New Haven. REC 27

No further action is being taken by the NHO in the absence of a specific request from the U.S. Dept. of Justice or the USA's Office in New Haven, Conn.

- 2 - Bureau (Encs. 4)
- 2 - New York (Encs. 3 - 1 USA, SDNY, Mr. GAYNOR)
- 1 - New Haven
- JGN/jbm
- (5)

1cc: AG CIVIL RIGHTS DIVISION
Form 6-64 10/10/67

1cc: CIVIL RIGHTS UNIT
1cc: 7-108

AUG 20 1969

57-115-1969

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

1082



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

New Haven, Connecticut

July 28, 1969

In Reply, Please Refer to
File No. NH 44-0-118

FLOYD P. BLACKMON, DEPUTY SHERIFF,
FAIRFIELD COUNTY, CONNECTICUT;
LEE SPIEGELMAN;
KOIZIM AND DAVIDOFF, ATTORNEYS;
ROBERT V. RAFTER - VICTIM

On July 23, 1969, ROBERT V. RAFTER appeared at the Office of United States Attorney STEWART H. JONES, District of Connecticut, United States Post Office, Church Street, New Haven, Connecticut, following a telephone call to Mr. JONES in which he stated that he, an attorney, desired to file a civil rights complaint with JONES.

RAFTER advised that he is a lawyer in New York City who does not practice in Connecticut. He advised that he resides at 1 North Avenue, Weston, Connecticut, and can be reached through telephone number 227-0149, which he noted was his daughter's telephone number.

RAFTER advised in the presence of USA JONES and [redacted] FBI, New Haven, that he desired to file a complaint alleging a violation of Title 18, Section 241, United States Code, in which he alleged conspiracy to obstruct justice in Connecticut and New York by certain individuals in which he was the victim.

RAFTER advised [redacted] that he had previously furnished the facts in this matter in July, 1967, in New York City and in this connection mentioned that Mr. GAYNOR, Chief of the Criminal Division, Southern District of New York, United States Attorney's Office, was familiar with the facts of the alleged violation as well as the New York Office of the FBI.

RAFTER stated he has again contacted Mr. GAYNOR and was advised by GAYNOR to contact the United States Attorney's Office in Connecticut since most of the activity in connection with the alleged violation occurred within the State of Connecticut.

RAFTER furnished essentially the same information as he had previous furnished on July 10, 1967, to Special Agents of the New York Office of the FBI.

44-0-13103

ENCLOSURE

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FLOYD F. BLACKMON, DEPUTY SHERIFF,
FAIRFIELD COUNTY, CONNECTICUT
LEE SPIEGELMAN;
KOIZIM AND DAVIDOFF, ATTORNEYS;
ROBERT V. RAFTER - VICTIM

USA JONES advised Mr. RAFTER that based upon information furnished by him there was no civil rights violation unless some further information indicative of a violation was brought to the attention of the United States Attorney's Office in Connecticut.

PROPERTY OF THE FBI

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x

ROBERT V. RAFTER,

Plaintiff,

-against-

FEDERAL BUREAU OF INVESTIGATION
OF THE UNITED STATES
DEPARTMENT OF JUSTICE

Defendant.

:

:

:

:

:

:

PRO SE

~~77 Civ. 1134~~ (MEF)

77 CIV. 1131

MEMORANDUM
AND
ORDER

----- x

FRANKEL, D.J.

Plaintiff, an attorney proceeding pro se, brought this action to compel disclosure under the Freedom of Information Act of F.B.I records pertaining to him. It now appears without material dispute that the thin sheaf of records in question pertains to an F.B.I. investigation made in 1967 at plaintiff's request of a Connecticut sheriff and others who were alleged by this plaintiff to have violated his federal civil rights by attaching his Ford automobile and by other actions connected with a dispute over the rent due under a summer lease of a house in Hartsdale, New York. (The same events were evidently the occasion for a private federal civil rights action by plaintiff dismissed by Judge Zampano in 1967. The later history of that action, if any, does not appear.) The F.B.I. has now delivered to plaintiff its file on him, complete except in one particular to be noted below. At least, it is

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declared on oath by a responsible agent charged with FOIA compliance that the file is complete, and there is no contrary indication generating a genuine issue of fact. The agent covers this subject in full and circumstantial detail, describing the procedures for file searches for this situation and swearing to careful fulfillment of these procedures. Plaintiff's conclusory averment that "there are other records" cannot be thought to tender a triable issue or to justify the series of depositions he proposes.

The single issue, legal rather than factual, arises from the undisputed fact that the F.B.I. has deleted in about three places the name of the agent conducting the investigation made at plaintiff's behest. In this state of affairs, plaintiff has sought to depose four F.B.I. people and the City Bar Association's Counsel "to determine the existence of New York records and the extent thereof."* Defendant has moved for summary judgment dismissing the complaint. The latter motion will be granted.

1. The name or names of the investigating agent(s) have been withheld under the asserted authority of 5 U.S.C. §552(b)(7)(C), which protects against any "unwarranted invasion of personal privacy" through disclosure of "investigatory records compiled for law enforcement purposes. . . ." It may be debatable whether the

*Plaintiff's affidavit sworn May 25, 1977, p.2.

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"privacy" thus safeguarded was intended, or primarily intended, to embrace that interest of law enforcement personnel as distinguished from private persons. However, the only cited precedents on the subject favor the defendant, Day v. Federal Bureau of Investigation, 76 Civ. 3209 (S.D.N.Y. 1977) (Knapp, J.); Ott v. Levi, 419 F. Supp. 750, 752 (D. Mo. E.D. 1976), and this court finds no justification for considering departure from those precedents in the circumstances of this case. Plaintiff suggests no reason of any kind why he needs the names of investigating agents. If there is room for debate, there is also ample room for holding that F.B.I. agents too retain some claims to personal privacy and security, at least against casual disclosures of the kind here sought without any suggestion of purported purpose.

2. A second argument advanced by the Government both reinforces the first and supplies an independent basis for dismissal. Plaintiff, as he was duly informed, had a right of administrative appeal to the Deputy Attorney General. He has chosen to ignore that right. This is the clearest kind of case for requiring exhaustion of administrative remedies. If plaintiff has some special need for the name of any investigating agent, a need not disclosed to the court, it would be the kind of submission appropriately to be weighed by the agency's responsible leadership in the first instance. But this merely illustrates the sound principle defendant invokes. The failure to exhaust is an independently sufficient ground for dismissal.

113a

3. The effort to take depositions must be overridden. The mere assertion, with no semblance of specificity, that there may be more records cannot be accepted as a basis for either keeping cases like this one alive or for allowing routinely the interrogation of agency personnel.

The complaint is dismissed. It is so ordered.

Dated, New York, New York
July 21, 1977

MARVIN E. FRANKEL

U.S.D.J.

114a

Refer to Judge Frankel after
docketing.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X ----- X

ROBERT V. RAFTER,

(MEF)

Plaintiff,

77CIV. 1131

- against -

NOTICE OF MOTION
FOR REARGUMENT.

FEDERAL BUREAU OF INVESTIGATION
OF THE UNITED STATES DEPARTMENT
OF JUSTICE,

Defendant.

X ----- X

S I R S :

PLEASE TAKE NOTICE that upon the annexed memorandum of plaintiff dated 28 July 1977, the original motion papers, the memorandum and order of the Honorable MARVIN E. FRANKEL filed 21 July 1977, and all the proceedings heretofore had herein, the undersigned will move this court at a motion term thereof to be held at Room 706 of the United States Courthouse, Foley Square, New York, New York, on the 8th day of August, 1977, at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel may be heard, for an order pursuant to Rule 9(m) of the General Rules of this court granting reargument of plaintiff's motion for discovery, and for such other and further relief as to the court shall seem just and proper.

Dated New York, New York
28 July 1977

Yours, etc.

ROBERT V. RAFTER

Attorney for plaintiff pro se
c/o Pro Se Clerk
Room G 33
U.S. District Court
U.S. Courthouse
Foley Square, New York, N.Y.
10007

TO: WILLIAM J. HIESHER
Assistant U.S. Attorney
Attorney for defendant
One St. Andrew's Plaza
New York, New York
10007

115a

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X - - - - -
ROBERT V. RAFTER,

(MEF)

Plaintiff,

77 CIV. 1131

- against -

FEDERAL BUREAU OF INVESTIGATION
OF THE UNITED STATES DEPARTMENT
OF JUSTICE,

Defendant.

X - - - - -

MEMORANDUM OF PLAINTIFF IN SUPPORT OF
MOTION TO REARGUE DISCOVERY MOTION.

Plaintiff invokes Rule 9(m) of the General Rules of this court and sets forth concisely in this memorandum the matters and controlling decisions which he believes the court has overlooked.

Respectfully: The court's footnote at page 2 of its order refers to plaintiff's affidavit of 25 May 1977. What of plaintiff's affidavit of 27 June 1977 at page 2 - "In brief, depositions are needed to prove existence of other records, the extent thereof, damaging effects, intentional and willful misconduct, and sham investigation." Plaintiff claims the records produced are inaccurate. For instance at page 5 of these records the FBI says:

He also stated that when the Deputy Sheriff asked him for the keys to his car on December 17, 1964, he refused at first to produce them. The deputy then told his companion to get the handcuffs. He interpreted this as a threat and he turned over the keys.

1. FBI memo of 12 July 1967.

1/6a

But the deputy sheriff says something quite different, see deposition excerpts appended. And there are other inaccuracies.

New Haven U.S. Attorney Stewart Jones' declination² of plaintiff's request is a determination adverse to plaintiff and it is based upon this flimsy FBI report.
(g)(1)

Now, section 552a(C) and (D) of the act provides a remedy for this, if the FBI has acted intentionally or willfully, and the remedy is a suit for damages.³

Damages are demanded in plaintiff's complaint. Since we are in court, it would seem redundant to require plaintiff to bring another suit under 552a(C) and (D). Multiple litigation can be avoided here and now, but to prove intentional sham on the part of the FBI, plaintiff needs depositions.

These are all factual issues and so is concealment.⁴

I agree the FBI report is thin. I had thought there would be more. I had thought there would be inquiry of the High Sheriff with respect to whom the clerk of court required I delete the written records clause of his subpoena duces tecum (appended) before he would sign it, and who testified 10 April 1975 on trial that he had no records.

He also testified that I had taken his deposition, when in fact I had held the deposition of an imposter who purported to be the High Sheriff.

2. FBI records page 1, dated 28 July 1969.

3. Section 552a(g)(4).

4. 134 Fed.(2) 875 (CA 2nd).

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Again page 2 of the court's memorandum states plaintiff seeks names of FBI agents. Not so. I seek⁵ FOIA records, not names. The covering letter at paragraph four (appended) is not checked and this means no effort has been made to obtain FOIA records; only P/A records have been produced. Mr. HOWARD's affidavit, sworn to 5 May 1977, at paragraphs 16-18 states plaintiff's request was determined to be a "Non-Project" FOIA request. Regulation 16.57 says you get both P/A and FOIA.

Depositions will reveal existence of FOIA records.

Plaintiff respectfully submits that the order of 21 July 1977 should be set aside, the complaint reinstated, and an order compelling discovery granted.

Dated: 28 July 1977.

Respectfully submitted,

Robert V. Rafter

ROBERT V. RAFTER
Attorney for plaintiff pro se.

5. See POINT I of plaintiff's memorandum of law setting forth covering letter, original motion papers returnable 13 July 1977.

118a

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

ROBERT V. RAFTER,

Plaintiff,

Vs.

CIVIL ACTION
NO. 11458

FLOYD BLACKMON and HOLLIS and
DAVIDOFF,

Defendants.

Depositions of FLOYD F. BLACKMON, HARRY L.
HOLLIS and LEE SPINGLIEN, taken pursuant to the
Federal Rules of Civil Procedure, at the United States
District Court House, New Haven, Connecticut, on
Monday, November 21, 1966, at 10:00 a.m., before
EUGENE J. RUSSELL, a Notary Public in and for the
State of Connecticut.

Appearance:

ROBERT V. RAFTER, Esq.
Pro se
10 Old Rock Road
Weston, Connecticut

EXHIBIT Deputy Sheriff Deposition

APPEARANCES (Cont'd.)

ROBERTS, WILLIAM, GEORGE, BRADLEY & BEEVER
Attorneys for Defendants Finkle and Davidson
875 Main Street
Bridgeport, Connecticut
By: G. WILSON HARRIS, Esq., of counsel

ROBERTS, WILLIAM, GEORGE & CO. HARRIS
Attorneys for the Defendant Lloyd Macomber
100 Constitution Plaza
Hartford, Connecticut
By: JAMES CHAMBERLAIN, Esq., of counsel

A I'm trying to tell you.

Q Fine.

A Want me to tell you in my own way or do you want to ask specific questions?

Q You tell it in your own way.

A I will tell you, then. The -- when I serve a writ from any law firm, the first thing they do, they command us to attach goods or estate, which includes banks and property and so forth. We make a search of the banks. If you have money there, we attach it. Then we attach anything else that's named for in the attachment. In this case, it happened to be your automobile. After I attach your car and after you laid me out in language with all the curse words and vile language, I make a return, and then I return it to the lawyer who served it.

Q In this particular case did you go to the bank first or did you go to me first?

A I went to the bank first.

Q How many times did you visit me?

A Twice. I visited your home twice. I saw you once.

Q When did you see me once, Mr. Blackmon?

A When I attached the car.

Q Who was with you on that day?

A Employee of Tommy Narra.

Q I am not familiar with Tommy Narra. Who might he be?

A He is a man who possesses cars for us. I take them into possession and give them to him and he takes them and puts them in storage in his garage.

Q Where is he located?

A 30 Gregory Street, Bridgeport.

Q Is this Tommy's Auto Repair Shop?

A Yes.

Q What's the name of this employee?

A I don't have his name.

Q What does he look like?

A Oh, he's about -- roughly, I don't -- we have different cars we travel with, so I can't give you a definite description. He was a little on the heavy side, he possibly weighed close to 300 pounds or maybe a little more, and roughly five feet ten. I don't remember the features.

Q You don't remember his name?

A No.

Q Have you employed him on other occasions?

A I use Tommy Marra on many occasions.

Q This particular employee, sir, have you used him on other occasions?

A Not to my knowledge.

Q Did you make any threats on the evening of the taking of my car?

A No. But you did.

Q Mr. Blackmon, let's get this straight.

A I'm trying to get it straight. I want on the record what happened.

Q You answer the questions and let's not have any nonsense with extra curricular activity.

A Don't ask questions like that.

Q Did you make any mention of handcuffs on the night you took my car?

A Certainly not. I don't even have handcuffs.

Q Did you ask this employee if he had the handcuffs?

A No.

Q Now, let's go into this. What time of the day did you attach my car?

A I don't remember the exact time, but it was after six o'clock.

Q Led to where did you remove the car?

A To 30 Gregory Street.

Q Where is that?

A In Bridgeport.

Q Is that Tony's Auto Repair Shop?

A It is.

Q Who drove the car to Bridgeport?

A Tony did.

Q Is Tony the name of this employee?

A No.

Q Did Tony accompany you that night?

A No.

Q I'm not clear on how Tony could drive the car.

A If you let me make it clear in my own words, I will.

But don't cut me off when I try to explain it. First of all, I came to your house -- I followed the car to your house, I came out and told you it was under attachment. You told me I couldn't take it because there was a lien on it. I said I could take it. Then I asked for your keys, and you told me I couldn't have the keys, and you told me I would be damned sorry if, "You were going to take it." I said, "Mr. Rafter, you're a lawyer, and you're going to tell me how to" --

Q How did you tell Tommy to drive the car if he wasn't with you?

A At that point you wouldn't give me the keys, so it was necessary to take the man with me in your car and have him sit there until I went down the corner and called Tommy up to come out with two passkeys. That's how Tommy came into the picture, and that's how he started your car, and he drove it back.

Q You got these keys from Tommy's Auto Repair Shop?

A I didn't get the keys, Tommy brought them and used them. I didn't touch the keys.

Q You made the keys available by telephoning Tommy's Repair Shop?

A He brought the keys with him.

Q You telephoned Tommy?

A Right.

Q And you asked him to bring the keys with him, is that right?

A Right.

Q Now, how long have you known Keisin and Davidoff?

A Well, I've been doing their work since I became the sheriff. Possibly in March, 1964. I did some of their work.

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
RECORDS DISCLOSURE COVER SHEET
FOI/PA BRANCH
RECORDS MANAGEMENT DIVISION

JUN 14 1977

Subject of Request: Robert V. Rafter

Mr. Robert V. Rafter
One North Avenue
Weston, Connecticut 06883

Dear Requester:

Enclosed are copies of documents from our files. Excisions have been made from these documents and/or entire documents withheld in order to protect materials which are exempted from disclosure by the following subsections of Title 5, United States Code, Section 552 and Section 552a. The exemption number(s) indicated by a mark appearing in the block to the left of the subsection cited constitutes the authority for withholding the deleted material. (See below and reverse side of this sheet for an explanation of these exemptions.)

Section 552

- ☐ (b) (1)
☐ (b) (2)
☐ (b) (3)
☐ (b) (4)
☐ (b) (5)
☐ (b) (6)

- ☐ (b) (7) (A)
☐ (b) (7) (B)
☒ (b) (7) (C)
☐ (b) (7) (D)
☐ (b) (7) (E)
☐ (b) (7) (F)
☐ (b) (8)
☐ (b) (9)

Section 552a

- ☐ (d) (5)
☐ (j) (2)
☐ (k) (1)
☐ (k) (2)
☐ (k) (3)
☐ (k) (4)
☐ (k) (5)
☐ (k) (6)
☐ (k) (7)

The decision to withhold exempt portions of our records is the responsibility of Clarence M. Kelley, Director of the FBI.

☒ If you believe your name may also have been recorded by the FBI incident to the investigation of other persons or some organization, please advise us of the details describing the specific incident or occurrence and time frame. Thereafter, further effort will be made to locate, retrieve and process any such records.

☐ Your request for information concerning yourself has been considered in light of the provisions of both the Freedom of Information Act (FOIA) (Title 5, United States Code, Section 552) and the Privacy Act of 1974 (Title 5, United States Code, Section 552a). It has been determined by the Attorney General that requests by individuals seeking information about themselves are governed by the Privacy Act. In addition, as a matter of administrative discretion, any documents which were found to be exempt from disclosure under the Privacy Act were also processed under the provisions of the FOIA. Through these procedures, you have received the greatest degree of access authorized by both laws.

☒ You have thirty days from receipt of this letter to appeal to the Deputy Attorney General from any denial contained herein. Appeals should be directed in writing to the Deputy Attorney General (Attention: Office of Privacy and Information Appeals), Washington, D. C. 20530. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal."

☐ See additional information on continuation page.

James M. Powers

James M. Powers, Chief
Freedom of Information-Privacy Acts Branch
Records Management Division

Enclosure

EXHIBIT FBI Covering Letter.

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b) (1) information which is currently and properly classified pursuant to Executive Order 11652 in the interest of the national defense or foreign policy
- (b) (2) materials related solely to the internal rules and practices of the FBI
- (b) (3) information specifically exempted from disclosure by statute (see continuation page)
- (b) (4) privileged or confidential information obtained from a person, usually involving commercial or financial matters
- (b) (5) inter-agency or intra-agency documents which are not available through discovery proceedings during litigation; or documents, the disclosure of which, would have an inhibitive effect upon the development of policy and administrative direction; or which represent the work product of an attorney-client relationship
- (b) (6) materials contained in sensitive records such as personnel or medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy
- (b) (7) investigatory records compiled for law enforcement purposes, the disclosure of which would: (A) interfere with law enforcement proceedings, including pending investigations; (B) deprive a person of the right to a fair trial or an impartial adjudication, or give one party to a controversy an undue advantage or exclusive access to such information; (C) constitute an unwarranted invasion of the personal privacy of another person; (D) reveal the identity of an individual who has furnished information to the FBI under confidential circumstances or reveal information furnished only by such a person and not apparently known to the public or otherwise accessible to the FBI by overt means; (E) disclose investigative techniques and procedures, thereby impairing their future effectiveness; and (F) endanger the life or physical safety of law enforcement personnel
- (b) (8) information collected by Government regulatory agencies from financial institutions
- (b) (9) geological and geophysical information, including maps, produced by private companies and filed by them with Government agencies.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d) (5) information compiled in reasonable anticipation of a civil action or proceeding
- (j) (2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminal, except records of arrest
- (k) (1) information which is currently and properly classified pursuant to Executive Order 11652 in the interest of the national defense or foreign policy
- (k) (2) material compiled during civil investigations for law enforcement purposes and which would reveal the identity of an individual who has furnished information pursuant to a promise that his identity would be held in confidence
- (k) (3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056
- (k) (4) required by statute to be maintained and used solely as statistical records
- (k) (5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his identity would be held in confidence
- (k) (6) the substance of tests used to determine individual qualifications for appointment or promotion in Federal Government service
- (k) (7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his identity would be held in confidence.

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SUPERIOR COURT COUNTY OF FAIRFIELD
AT BRIDGEPORT

ROBERT V. RAFTER,

Plaintiff, :

- against - :

JOHN P. PREVIDI,

Defendant. -

DOCKET NO. 139186

SUBPOENA

To JOHN P. PREVIDI, High Sheriff of Fairfield County,
State of Connecticut, having offices at Bridgeport in the
State of Connecticut:

By authority of the State of Connecticut, you are hereby
commanded to appear before the Superior Court, to be holden
at 2:00 o'clock in the afternoon at Bridgeport on the 10th
day of April, 1975, or to such day thereafter and within
thirty days hereof on which said action is legally to be tried,
to testify what you know in a certain action pending in said
court, between ROBERT V. RAFTER of Weston, plaintiff, and
JOHN P. PREVIDI, High Sheriff of Fairfield County, of
Bridgeport, defendant, in a civil action, and bring with you
~~any and all documents and writings relating to the plaintiff~~
~~which are in your physical possession, custody or control.~~ 327

Hereof fail not, under penalty of law.

To any proper officer or indifferent person to serve
and return.

Dated at Bridgeport:

4 April 1975

Bennett J. Lusk
CLERK OF THE SUPERIOR COURT
AT BRIDGEPORT.

EXHIBIT High Sheriff Subpoena.

signed under
52-143

(16) In order to equitably administer the processing of requests for records pursuant to the disclosure provisions of the FOIA and PA, all such requests are handled seriatim by the Disclosure Section of the FOIPA Branch with no preference or early processing granted based on the particular Act under which disclosure is requested.

(17) Requests received by the FBI that fall within the FOIA are designated as "Project" or "Non-Project" requests. A request wherein the retrievable records are so voluminous (15 volumes or more) as to require a substantial amount of record review time are "Project" requests, and those having to do with a lesser amount of records review are "Non-Project" requests.

(18) Plaintiff's request was determined to be a "Non-Project" request and was placed on the Non-Project docket, to be processed in chronological order according to the date of its receipt at FBIHQ. As such, each step in the initial handling of plaintiff's request has been entirely consistent with the FBI procedures which were adopted to ensure an equitable and efficient response to all parties seeking information under the Freedom of Information and Privacy Acts. As will be outlined below,

EXHIBIT HOWARD AFFIDAVIT